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4VAC50-60-10

Part I

Definitions, Purpose, and Applicability

4VAC50-60-10. Definitions.

The following words and terms used in this chapter have the following meanings unless the context clearly indicates otherwise.

"Act" means the Virginia Stormwater Management Act, Article 1.1 (B§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"Administrator" means the Administrator of the United States Environmental Protection Agency or an authorized representative.

"Applicable standards and limitations" means all state, interstate, and federal standards and limitations to which a discharge or a related activity is subject under the Clean Water Act (CWA) (33 USC B§ 1251 et seq.) and the Act, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, and standards for sewage sludge use or disposal under B§B§ 301, 302, 303, 304, 306, 307, 308, 403 and 405 of CWA.

"Approval authority" means the Virginia Soil and Water Conservation Board or its designee.

"Approved program" or "approved state" means a state or interstate program that has been approved or authorized by EPA under 40 CFR Part 123 (2000).

"Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

"Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

"Best management practice" or "BMP" means schedules of activities, prohibitions of practices, ~~including both structural and nonstructural practices~~, maintenance procedures, and other management practices, including both structural and nonstructural practices, to prevent or reduce the pollution of surface waters and groundwater systems ~~from the impacts of land-disturbing activities~~.

"Board" means the Virginia Soil and Water Conservation Board.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Channel" means a natural or manmade waterway.

"Chesapeake Bay Preservation Act land-disturbing activity" means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations (4VAC50-90) adopted pursuant to the Chesapeake Bay Preservation Act.

"Chesapeake Bay watershed" means all land areas draining to the following Virginia river basins: Potomac River Basin, James River Basin, Rappahannock River Basin, Chesapeake Bay and its small coastal basins, and York River Basin.

"Common plan of development or sale" means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

"Comprehensive stormwater management plan" means a plan, which may be integrated with other land use plans or regulations, that specifies how the water quality components, quantity components, or both of stormwater are to be managed on the basis of an entire watershed or a portion thereof. The plan may also provide for the remediation of erosion, flooding, and water quality and quantity problems caused by prior development.

"Construction activity" means any clearing, grading or excavation associated with large construction activity or associated with small construction activity.

"Contiguous zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR 11906 June 15, 1972).

"Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

"Control measure" means any BMP, stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

"Co-operator" means an operator of a state permit that is only responsible for state permit conditions relating to the discharge for which it is the operator.

"Clean Water Act" or "CWA" means the federal Clean Water Act (33 USC B§ 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

"CWA and regulations" means the Clean Water Act (CWA) and applicable regulations published in the Code of Federal Regulations promulgated thereunder. For the purposes of this chapter, it includes state program requirements.

"Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

"Department" means the Department of Conservation and Recreation.

"Development" means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures or the clearing of land for nonagricultural or nonsilvicultural purposes. The regulation of discharges from development, for purposes of these regulations, does not include the exemptions found in 4VAC50-60-300.

"Direct discharge" means the discharge of a pollutant.

"Director" means the Director of the Department of Conservation and Recreation or his designee.

"Discharge," when used without qualification, means the discharge of a pollutant.

"Discharge of a pollutant" means:

1. Any addition of any pollutant or combination of pollutants to state waters from any point source; or
2. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"Discharge Monitoring Report" or "DMR" means the form supplied by the department, or an equivalent form developed by the operator and approved by the board, for the reporting of self-monitoring results by operators.

"Draft state permit" means a document indicating the board's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a state permit. A notice of intent to terminate a state permit, and a notice of intent to deny a state permit are types of draft state permits. A denial of a request for modification, revocation and reissuance, or termination is not a draft state permit. A proposed state permit is not a draft state permit.

"Drainage area" means a land area, water area, or both from which runoff flows to a common point.

"Effluent limitation" means any restriction imposed by the board on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into surface waters, the waters of the contiguous zone, or the ocean.

"Effluent limitations guidelines" means a regulation published by the administrator under B§ 304(b) of the CWA to adopt or revise effluent limitations.

"Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

"Existing state permit" means for the purposes of this chapter a state permit issued by the board and currently held by a state permit applicant.

"Existing source" means any source that is not a new source or a new discharger.

"Facilities or equipment" means buildings, structures, process or production equipment or machinery that form a permanent part of a new source and that will be used in its operation, if these facilities or equipment are of such value as to represent a substantial commitment to construct. It excludes facilities or equipment used in connection with feasibility, engineering, and design studies regarding the new source or water pollution treatment for the new source.

"Facility or activity" means any point source or treatment works treating domestic sewage or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the VSMP.

"Flood fringe" means the portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes, but is not limited to, the flood or floodway fringe designated by the Federal Emergency Management Agency.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Floodplain" means the area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes, but is not limited to, the floodplain designated by the Federal Emergency Management Agency.

"Flood-prone area" means the component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include, but are not limited to, the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved in order to discharge the 100-year flood or storm event without cumulatively increasing the water surface elevation more than one foot. This includes, but is not limited to, the floodway designated by the Federal Emergency Management Agency.

"General permit" means a state permit authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

"Hazardous substance" means any substance designated under the Code of Virginia or 40 CFR Part 116 (2000) pursuant to B§ 311 of the CWA.

"Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset unless specifically identified as another order.

"Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater, except discharges pursuant to a VPDES or state permit (other than the state permit for discharges from the municipal separate storm sewer), discharges resulting from fire fighting activities, and discharges identified by and in compliance with ~~4VAC50-60-1220 C 2~~ 4VAC50-60-400 D 2 c (3).

"Impervious cover" means a surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

"Incorporated place" means a city, town, township, or village that is incorporated under the Code of Virginia.

"Indian country" means (i) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (ii) all dependent Indian communities with the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and (iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

"Indirect discharger" means a nondomestic discharger introducing "pollutants" to a "publicly owned treatment works (POTW)."

"Inspection" means an on-site review of the project's compliance with the permit or the state permit, the VSMP, and any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of the Act and this chapter.

"Interstate agency" means an agency of two or more states established by or under an agreement or compact approved by Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution as determined and approved by the administrator under the CWA and regulations.

"Karst area" means any land area predominantly underlain at the surface or shallow subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious surface karst features.

"Karst features" means sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

"Land disturbance" or "land-disturbing activity" means a manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include those exemptions specified in B§ 10.1-603.8 of the Code of Virginia.

"Large construction activity" means construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more. Large construction

activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"Large municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 250,000 or more as determined by the 1990 decennial census by the Bureau of Census (40 CFR Part 122 Appendix F (2000));
2. Located in the counties listed in 40 CFR Part 122 Appendix H (2000), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties;
3. Owned or operated by a municipality other than those described in subdivision 1 or 2 of this definition and that are designated by the board as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under subdivision 1 or 2 of this definition. In making this determination the board may consider the following factors:
 - a. Physical interconnections between the municipal separate storm sewers;
 - b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subdivision 1 of this definition;
 - c. The quantity and nature of pollutants discharged to surface waters;
 - d. The nature of the receiving surface waters; and
 - e. Other relevant factors.
4. The board may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in this definition.

"Layout" means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

"Linear development project" means a land-disturbing activity that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; (iii) highway construction projects; (iv) construction of stormwater channels and stream restoration activities; and (v) water and sewer lines. Private subdivision roads or streets shall not be considered linear development projects.

"Locality" means a county, city, or town.

"Localized flooding" means smaller scale flooding that may occur outside of a stormwater conveyance system. This may include high water, ponding, or standing water from stormwater runoff, which is likely to cause property damage or unsafe conditions.

"Main channel" means the portion of the stormwater conveyance system that contains the base flow and small frequent storm events.

"Major facility" means any facility or activity classified as such by the regional administrator in conjunction with the board.

"Major modification" means, for the purposes of this chapter, the modification or amendment of an existing state permit before its expiration that is not a minor modification as defined in this regulation.

"Major municipal separate storm sewer outfall" or "major outfall" means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive stormwater from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), with an outfall that discharges

from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of two acres or more).

"Manmade" means constructed by man.

"Maximum daily discharge limitation" means the highest allowable daily discharge.

"Maximum extent practicable" or "MEP" means the technology-based discharge standard for municipal separate storm sewer systems established by CWA B§ 402(p). MEP is achieved, in part, by selecting and implementing effective structural and nonstructural best management practices (BMPs) and rejecting ineffective BMPs and replacing them with effective best management practices (BMPs). MEP is an iterative standard, which evolves over time as urban runoff management knowledge increases. As such, the operator's MS4 program must continually be assessed and modified to incorporate improved programs, control measures, BMPs, etc., to attain compliance with water quality standards.

"Medium municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 100,000 or more but less than 250,000 as determined by the 1990 decennial census by the Bureau of Census (40 CFR Part 122 Appendix G (2000));
2. Located in the counties listed in 40 CFR Part 122 Appendix I (2000), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties;
3. Owned or operated by a municipality other than those described in subdivision 1 or 2 of this definition and that are designated by the board as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under subdivision 1 or 2 of this definition. In making this determination the board may consider the following factors:
 - a. Physical interconnections between the municipal separate storm sewers;
 - b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subdivision 1 of this definition;
 - c. The quantity and nature of pollutants discharged to surface waters;
 - d. The nature of the receiving surface waters; or
 - e. Other relevant factors.
4. The board may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in subdivisions 1, 2 and 3 of this definition.

["Minimize" means to reduce or eliminate the discharge of pollutants to the extent achievable using stormwater controls that are technologically available and economically practicable.]

"Minor modification" means, for the purposes of this chapter, minor modification or amendment of an existing state permit before its expiration for the reasons listed at 40 CFR 122.63 and as specified in 4VAC50-60-640. Minor modification for the purposes of this chapter also means other modifications and amendments not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor state permit modification or amendment does not substantially alter state permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

"Municipal separate storm sewer" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains:

1. Owned or operated by a federal, state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction or delegated authority for erosion and sediment control and stormwater management, or a designated and approved management agency under B§ 208 of the CWA that discharges to surface waters;
2. Designed or used for collecting or conveying stormwater;
3. That is not a combined sewer; and
4. That is not part of a publicly owned treatment works.

"Municipal separate storm sewer system" or "MS4" means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems or designated under 4VAC50-60-380 A 1.

"Municipal Separate Storm Sewer System Management Program" or "MS4 Program" means a management program covering the duration of a state permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and regulations and the Act and attendant regulations, using management practices, control techniques, and system, design and engineering methods, and such other provisions that are appropriate.

"Municipality" means a city, town, county, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under B§ 208 of the CWA.

"National Pollutant Discharge Elimination System" or "NPDES" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing state permits, and imposing and enforcing pretreatment requirements under B§B§ 307, 402, 318, and 405 of the CWA. The term includes an approved program.

"Natural channel design concepts" means the utilization of engineering analysis based on fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its floodplain.

"Natural stream" means a tidal or nontidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams.

"New discharger" means any building, structure, facility, or installation:

1. From which there is or may be a discharge of pollutants;
2. That did not commence the discharge of pollutants at a particular site prior to August 13, 1979;
3. Which is not a new source; and
4. Which has never received a finally effective VPDES or state permit for discharges at that site.

This definition includes an indirect discharger that commences discharging into surface waters after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a VPDES or state permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979.

"New permit" means, for the purposes of this chapter, a state permit issued by the board to a state permit applicant that does not currently hold and has never held a state permit of that type, for that activity, at that location.

"New source," means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

1. After promulgation of standards of performance under B§ 306 of the CWA that are applicable to such source; or
2. After proposal of standards of performance in accordance with B§ 306 of the CWA that are applicable to such source, but only if the standards are promulgated in accordance with B§ 306 of the CWA within 120 days of their proposal.

"Nonpoint source pollution" means pollution such as sediment, nitrogen, phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater runoff.

"Operator" means the owner or operator of any facility or activity subject to the Act and this chapter. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other state permit or VSMP authority permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions). In the context of stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s), operator means the operator of the regulated MS4 system.

"Outfall" means, when used in reference to municipal separate storm sewers, a point source at the point where a municipal separate storm sewer discharges to surface waters and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other surface waters and are used to convey surface waters.

"Overburden" means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring surface materials that are not disturbed by mining operations.

"Owner" means the Commonwealth or any of its political subdivisions including, but not limited to, sanitation district commissions and authorities, and any public or private institution, corporation, association, firm or company organized or existing under the laws of this or any other state or country, or any officer or agency of the United States, or any person or group of persons acting individually or as a group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any actual or potential discharge of sewage, industrial wastes, or other wastes or pollutants to state waters, or any facility or operation that has the capability to alter the physical, chemical, or biological properties of state waters in contravention of B§ 62.1-44.5 of the Code of Virginia, the Act and this chapter.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permit" or B"VSMP authority permitB" means an approval to conduct a land-disturbing activity issued by the VSMP authority for the initiation of a land-disturbing activity after evidence of general permit coverage has been provided where applicable.

"Permittee" means the person to which the state permit or VSMP authority permit is issued, including any owner or operator whose construction site is covered under a state construction general permit.

"Person" means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body, including a federal, state, or local entity as applicable, any interstate body or any other legal entity.

"Point of discharge" means a location at which concentrated stormwater runoff is released.

"Point source" means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC B§ 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

1. Sewage from vessels; or

2. Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well if the well used either to facilitate production or for disposal purposes is approved by the board and if the board determines that the injection or disposal will not result in the degradation of ground or surface water resources.

"Pollutant discharge" means the average amount of a particular pollutant measured in pounds per year or other standard reportable unit as appropriate, delivered by stormwater runoff.

"Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the State Water Control Board, are "pollution" for the terms and purposes of this chapter.

"Postdevelopment" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site.

"Predevelopment" refers to the conditions that exist at the time that plans for the land development of a tract of land are submitted to the VSMP authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing structures, roads and utilities, etc.), the existing conditions at the time prior to the first item being submitted shall establish predevelopment conditions.

"Prior developed lands" means land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

"Privately owned treatment works" or "PVOTW" means any device or system that is (i) used to treat wastes from any facility whose operator is not the operator of the treatment works and (ii) not a POTW.

"Proposed state permit" means a state permit prepared after the close of the public comment period (and, when applicable, any public hearing and administrative appeals) that is sent to EPA for review before final issuance. A proposed state permit is not a draft state permit.

"Publicly owned treatment works" or "POTW" means a treatment works as defined by B§ 212 of the CWA that is owned by a state or municipality (as defined by B§ 502(4) of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial

wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in B§ 502(4) of the CWA, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

"Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. For VSMP authorities this requires the use of a person who holds a certificate of competency from the board in the area of project inspection for ESC and project inspection for SWM or combined administrator for ESC and combined administrator for SWM as defined in 4VAC50-50-10 or a combination of ESC and SWM qualifications from these two areas.

"Recommencing discharger" means a source that recommences discharge after terminating operations.

"Regional administrator" means the Regional Administrator of Region III of the Environmental Protection Agency or the authorized representative of the regional administrator.

"Revoked state permit" means, for the purposes of this chapter, an existing state permit that is terminated by the board before its expiration.

"Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.

"Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"Runoff characteristics" include maximum velocity, peak flow rate, volume, and flow duration.

"Runoff volume" means the volume of water that runs off the site from a prescribed design storm.

"Schedule of compliance" means a schedule of remedial measures included in a state permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the Act, the CWA and regulations.

"Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Significant materials" means, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under B§ 101(14) of CERCLA (42 USC B§ 9601(14)); any chemical the facility is required to report pursuant to B§ 313 of Title III of SARA (42 USC B§ 11023); fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

"Single jurisdiction" means, for the purposes of this chapter, a single county or city. The term county includes incorporated towns which are part of the county.

"Site" means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

"Site hydrology" means the movement of water on, across, through and off the site as determined by parameters including, but not limited to, soil types, soil permeability, vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

"Small construction activity" means:

1. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre, and less than five acres. Small construction activity also includes the disturbance

of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The board may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on ~~a~~ an approved "total maximum daily load" (TMDL) ~~approved or established by EPA~~ that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the board that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.

2. Any other construction activity designated by the either the board or the EPA [~~regional administrator~~ Regional Administrator], based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"Small municipal separate storm sewer system" or "small MS4" means all separate storm sewers that are (i) owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under B§ 208 of the CWA that discharges to surface waters and (ii) not defined as "large" or "medium" municipal separate storm sewer systems or designated under 4VAC50-60-380 A 1. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highway and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

"Source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants.

"State" means the Commonwealth of Virginia.

B"State applicationB" or B"applicationB" means the standard form or forms, including any additions, revisions, or modifications to the forms, approved by the administrator and the board for applying for a state permit.

"State/EPA agreement" means an agreement between the EPA [~~regional administrator~~ Regional Administrator] and the state that coordinates EPA and state activities, responsibilities and programs including those under the CWA and the Act.

"State permit" means an approval to conduct a land-disturbing activity issued by the board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Act and this chapter. State permit does not include any state permit that has not yet been the subject of final board action, such as a draft state permit or a proposed state permit.

"State project" means any land development project that is undertaken by any state agency, board, commission, authority or any branch of state government, including state-supported institutions of higher learning.

"State Water Control Law" means Chapter 3.1 (B§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater conveyance system" means a combination of drainage components that are used to convey stormwater discharge, either within or downstream of the land-disturbing activity. This includes:

1. "Manmade stormwater conveyance system" means a pipe, ditch, vegetated swale, or other stormwater conveyance system constructed by man except for restored stormwater conveyance systems;
2. "Natural stormwater conveyance system" means the main channel of a natural stream and the flood-prone area adjacent to the main channel; or
3. "Restored stormwater conveyance system" means a stormwater conveyance system that has been designed and constructed using natural channel design concepts. Restored stormwater conveyance systems include the main channel and the flood-prone area adjacent to the main channel.

"Stormwater discharge associated with construction activity" means a discharge of stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading, or excavation); construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling); or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

"Stormwater discharge associated with large construction activity" means the discharge of stormwater from large construction activities.

"Stormwater discharge associated with small construction activity" means the discharge of stormwater from small construction activities.

"Stormwater management facility" means a control measure that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

"Stormwater management plan" means a document(s) containing material for describing methods for complying with the requirements of the VSMP or this chapter.

"Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site. ~~In addition the document A SWPPP required under a VSMP for construction activities shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.~~

"Subdivision" means the same as defined in B§ 15.2-2201 of the Code of Virginia.

"Surface waters" means:

1. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - a. That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - c. That are used or could be used for industrial purposes by industries in interstate commerce.

4. All impoundments of waters otherwise defined as surface waters under this definition;
5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA and the law, are not surface waters. Surface waters do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other agency, for the purposes of the CWA, the final authority regarding the CWA jurisdiction remains with the EPA.

"Total dissolved solids" means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136 (2000).

"Total maximum daily load" or "TMDL" means the sum of the individual wasteload allocations for point sources, load allocations (LAs) for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

"Total maximum daily load Action Plan" or "TMDL Action Plan" means the scheduled steps of activities that the MS4 operator will take to address the assumptions and requirements of the TMDL wasteload allocation. TMDL action plans [are may be] implemented [in multiple phases] over more than one state permit cycle.

"Toxic pollutant" means any pollutant listed as toxic under B§ 307(a)(1) of the CWA or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing B§ 405(d) of the CWA.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based state permit effluent limitations because of factors beyond the reasonable control of the operator. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"Variance" means any mechanism or provision under B§ 301 or B§ 316 of the CWA or under 40 CFR Part 125 (2000), or in the applicable federal effluent limitations guidelines that allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the CWA. This includes provisions that allow the establishment of alternative limitations based on fundamentally different factors or on B§ 301(c), B§ 301(g), B§ 301(h), B§ 301(i), or B§ 316(a) of the CWA.

B"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in the Erosion and Sediment Control Act and its attendant regulations, and evaluation consistent with the requirements of the Erosion and Sediment Control Act and its attendant regulations.

B"Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means an authority approved by the board to operate a Virginia Erosion and Sediment Control Program. An authority may include a state entity, including the department; a federal entity; a district, county, city, or town; or for linear projects subject to annual standards and specifications, electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to B§ 15.2-5102 of the Code of Virginia.

"Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES permit" means a document issued by the State Water Control Board pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge.

"Virginia Stormwater Management Act" means Article 1.1 (B§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"Virginia Stormwater BMP Clearinghouse website" means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations and that is jointly created by the department and the Virginia Water Resources Research Center subject to advice to the director from a permanent stakeholder advisory committee.

"Virginia Stormwater Management Handbook" means a collection of pertinent information that provides general guidance for compliance with the Act and associated regulations and is developed by the department with advice from a stakeholder advisory committee.

"Virginia Stormwater Management Program" or "VSMP" means a program approved by the board after September 13, 2011, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in the Act and associated regulations, and evaluation consistent with the requirements of the SWM Act and associated regulations.

B"Virginia Stormwater Management Program authority" or "VSMP authority" means an authority approved by the board after September 13, 2011, to operate a Virginia Stormwater Management Program or, until such approval is given, the department. An authority may include a locality; state entity, including the department; federal entity; or, for linear projects subject to annual standards and specifications in accordance with subsection B of B§ 10.1-603.5 of the Code of Virginia, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to B§ 15.2-5102 of the Code of Virginia. Prior to approval, the board must find that the ordinances adopted by the locality's VSMP authority are consistent with the Act and this chapter including the General Permit for Discharges of Stormwater from Construction Activities (Part XIV (4VAC50-60-1100 et seq.) of this chapter).

"Wasteload allocation" or "wasteload" or "WLA" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

"Water quality standards" or "WQS" means provisions of state or federal law that consist of a designated use or uses for the waters of the Commonwealth and water quality criteria for such waters based on such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water, and serve the purposes of the State Water Control Law (B§ 62.1-44.2 et seq. of the Code of Virginia), the Act (B§ 10.1-603.1 et seq. of the Code of Virginia), and the CWA (33 USC B§ 1251 et seq.).

"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which the water drains may be considered the single outlet for the watershed.

"Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Whole effluent toxicity" means the aggregate toxic effect of an effluent measured directly by a toxicity test.

4VAC50-60-1200

Part XV

General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems

4VAC50-60-1200. Definitions.

The words and terms used in this part shall have the meanings defined in the Act and this chapter unless the context clearly indicates otherwise, except that for the purposes of this part:

"Date brought on line" means the date when the operator determines that a new stormwater management facility is properly functioning to meet its designed pollutant load reduction.

"MS4 Program Plan" means the completed registration statement and all approved additions, changes and modifications detailing the comprehensive program implemented by the operator under this state permit to reduce the pollutants in the stormwater discharged from its municipal separate storm sewer system (MS4) that has been submitted and accepted by the department.

~~["Municipality" means all entities included in the definition of "municipality" found at 4VAC50-60-10 and federal facilities that operate a small municipal separate storm sewer system.]~~

"Operator" means the MS4 operator that has been issued coverage under the General Permit for Discharges of Stormwater from small municipal separate storm sewer systems.

"Physically interconnected" means that a MS4 directly discharges to a second MS4 one MS4 is connected to a second MS4 in such a manner that it allows for direct discharges to the second system.

~~["Public" as described in Federal Register, Volume 64, No. 235, page 68,750 on December 8, 1999, and as used in the context of this permit means the resident and employee population within the fence line of the facility. This concept shall also apply to nontraditional MS4 operators, such as state and federal entities and local school districts, that utilize this statement as guidance when determining their applicable "public" for compliance with this permit.]~~

4VAC50-60-1210

4VAC50-60-1210. Purpose; delegation of authority; effective date of the state permit.

A. This general permit regulation governs stormwater discharges from regulated small municipal separate storm sewer systems ~~(regulated small MS4s)~~ (small MS4s) to surface waters of the Commonwealth of Virginia.

~~[1. Unless the small MS4 qualifies for a waiver under subdivision 3 of this subsection, operators are regulated if they operate a small MS4, including but not limited to systems operated by federal, state, tribal, and local governments, including the Virginia Department of Transportation; and:~~

~~a. The small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. If the small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated; or~~

~~b. The small MS4 is designated by the board, including where the designation is pursuant to 40 CFR Part 123.35 (b)(3) or (b)(4) (2001), or is based upon a petition under 4VAC50-60-380 D.~~

~~2. A small MS4 may be the subject of a petition pursuant to 4VAC50-60-380 D to the board to require a state permit for their discharge of stormwater. If the board determines that a small MS4 needs a state permit and the operator applies for coverage under this general permit, the operator is required to comply with the requirements of Part XV (4VAC50-60-1180 et seq.) of this chapter.~~

~~3. The board may waive the requirements otherwise applicable to a regulated small MS4 if it meets the criteria of subdivision 4 or 5 of this subsection. If a waiver is received under this subsection, the operator may subsequently be required to seek coverage under a state permit in accordance with 4VAC50-60-400 C if circumstances change. (See also 40 CFR Part 123.35 (b) (2001))~~

~~4. The board may waive state permit coverage if the regulated small MS4 serves a population of less than 1,000 within the urbanized area and meets the following criteria:~~

~~a. The system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the state stormwater program; and~~

~~b. Pollutants are discharged that have been identified as a cause of impairment of any water body to which the regulated small MS4 discharges but stormwater controls are not needed based on wasteload allocations that are part of a State Water Control Board established and EPA an approved "total maximum daily load" (TMDL) that addresses the pollutants of concern.~~

~~5. The board may waive state permit coverage if the regulated small MS4 serves a population under 10,000 and meets the following criteria:~~

a. ~~The State Water Control Board has evaluated all surface waters, including small streams, tributaries, lakes, and ponds, that receive a discharge from the regulated small MS4;~~

b. ~~For all such waters, the board has determined that stormwater controls are not needed based on wasteload allocations that are part of a State Water Control Board established and EPA an approved TMDL that addresses the pollutants of concern or, if a TMDL has not been developed and approved, an equivalent analysis that determines sources and allocations for the pollutants of concern;~~

c. ~~For the purpose of this subdivision, the pollutants of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the regulated small MS4; and~~

d. ~~The board has determined that future discharges from the regulated small MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.]~~

B. This general permit will become effective on ~~July 9, 2008~~ July 1, 2013, and will expire five years from the effective date [consistent with 4VAC 50-60-330].

4VAC50-60-1220

4VAC50-60-1220. Authorization to discharge.

A. Any operator [~~governed~~ covered] by this general permit is [~~hereby~~] authorized to discharge stormwater from the ~~regulated~~ small MS4 to surface waters of the Commonwealth of Virginia provided that the operator [~~files and receives acceptance of the registration statement of 4VAC50-60-1230 by the department and files the permit fees required by Part XIII (4VAC50-60-700 et seq.) of this chapter, and provided that the operator shall not have been required to obtain an individual permit according to 4VAC50-60-440-B~~ submits a complete and accurate registration statement in accordance with 4VAC50-60-1230 that is accepted by the board, submits any fees required by 4VAC50-60-700 et seq. (Part XIII), and complies with the requirements of 4VAC50-60-1240].

B. The operator [~~shall is~~] not [~~be~~] authorized by this general permit to discharge to state surface waters specifically named in other State Water Control Board or board regulations ~~or policies~~ that prohibit such discharges.

C. Nonstormwater discharges or flows into the ~~regulated~~ small MS4 are authorized by this state permit and do not need to be addressed in the MS4 Program required under 4VAC50-60-1240, Section II B 3, if:

1. The nonstormwater discharges or flows are covered by a separate individual or general VPDES or state permit for nonstormwater discharges;

2. The individual nonstormwater discharges or flows have been identified in writing by the Department of Environmental Quality as de minimis discharges that are not significant sources of pollutants to state surface waters and do not require a VPDES permit;

3. Nonstormwater discharges or flows ~~in the following categories identified at 4VAC50-60-400 D 2 c (3) that have not been identified by the operator, State Water Control Board, or by the board as significant contributors of pollutants to the regulated small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and discharges or flows from fire fighting activities; or~~

4. The discharge of materials resulting from a spill is necessary to prevent loss of life, personal injury, or severe property damage. The operator shall take, or ensure that the responsible party takes, all reasonable steps to minimize or prevent any adverse effect on human health or the environment. This state permit does not transfer liability for a spill itself from the party(ies) responsible for the spill to the operator nor relieve the party(ies) responsible for a spill from the reporting requirements of 40 CFR Part 117 and 40 CFR Part 302 (2001).

~~D.~~ In the event the operator is unable to meet certain conditions of this permit due to circumstances beyond the operator's control, [the operator shall submit] a written explanation of the circumstances that prevented state permit compliance shall be submitted to the department in the annual report. Circumstances beyond the control of the operator [~~may~~] include [but are not limited to] abnormal climatic conditions; weather conditions that make certain requirements unsafe or impracticable; or unavoidable equipment failures caused by weather conditions or other conditions beyond the reasonable control of the operator (operator error is not a condition beyond the control of the operator). The failure to provide adequate program funding, staffing or equipment maintenance shall not be an acceptable explanation for failure to meet state permit conditions. The board will determine, at its sole discretion, whether the reported information will result in an enforcement action.

~~D.~~ E. Discharges that are excluded from obtaining a state permit pursuant to 4VAC50-60-300 are exempted from the regulatory requirements of this state permit.

~~E.~~ F. Pursuant to [~~40 CFR Part 122.34 (c) (2001)~~ 4VAC50-60-400 D 3], for those portions of a regulated small MS4 that are covered under a VPDES permit for industrial stormwater discharges, the operator shall follow the conditions established under the VPDES permit. Upon termination of VPDES permit coverage, discharges from previously VPDES authorized outfalls shall meet the conditions of this state permit provided it has been determined by the board that an individual MS4 permit is not required.

~~F.~~ G. Stormwater discharges from specific MS4 ~~outfalls~~ operator activities that have been granted conditional exclusion for "no exposure" of industrial activities and materials to stormwater under the VPDES permitting program shall ~~obtain coverage under this general permit~~ comply with this state permit unless a [VPDES VPDES] permit is obtained. The Department of Environmental Quality is responsible for determining compliance with the conditional exclusion under the State Water Control Law and attendant regulations.

~~G.~~ H. Receipt of this general permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

[I. Continuation of permit coverage. Any operator that was authorized to discharge under the state permit issued in 2008 and that submits a complete registration statement in accordance with Section III M of 4VAC50-60-1240 is authorized to continue to discharge under the terms of the 2008 state permit until such time as the board either:

1. Issues coverage to the operator under this state permit; or
2. Notifies the operator that the discharge is not eligible for coverage under this state permit.]

4VAC50-60-1230
4VAC50-60-1230. State permit application (registration statement).

A. Deadline for submitting a registration statement.

1. Operators of ~~regulated~~ small MS4s designated under 4VAC50-60-1210 A 1 b, that are applying for coverage under this general permit must submit a complete registration statement to the department within 180 days of notice of designation, unless the board grants a later date.

2. In order to continue uninterrupted coverage under the general permit, operators of ~~regulated~~ small MS4s shall submit a new registration statement at least 90 days before the expiration date of the existing state permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing state permit.

B. Registration statement.

The registration statement shall include the following information:

1. The name and location (county or city name) of the ~~regulated~~ small MS4 for which the registration statement is submitted;

2. The name, type (city, county, incorporated town, unincorporated town, college or university, local school board, military installation, transportation system, federal or state facility, or other), and address of the operator of the ~~regulated~~ small MS4;

3. The Hydrologic Unit Code(s) as identified in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset (available online at http://www.dcr.virginia.gov/soil_&_water/hu.shtml) currently receiving discharges or that have potential to receive discharges from the ~~regulated~~ small MS4;

4. The estimated drainage area, in acres, served by the ~~regulated~~ small MS4 directly discharging to any impaired receiving surface waters listed in the ~~2006~~ [2012 2010] Virginia 305(b)/303(d) Water Quality Assessment Integrated Report, and a description of the land use for each such drainage area;

5. A listing of any TMDL wasteloads allocated to the ~~regulated~~ small MS4. This information may be found at:

[~~<http://www.deq.state.va.us/tmdl/develop.html>~~

<http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment.aspx>];

6. The name(s) of any ~~regulated~~ physically interconnected MS4s to which the ~~regulated~~ small MS4 discharges;

7. For operators that had coverage under the previous VSMP General Permit, a copy of the currently implemented MS4 Program Plan. The operator shall continue to implement this plan and any updates as required by this state permit in accordance with Table 1 in 4VAC50-60-1240.

~~7. A copy of the MS4 Program Plan that includes~~ 8. For operators applying for initial coverage designated under 4VAC50-60-1210 A, a schedule of development of an MS4 Program Plan that [complies with Table 1 in 4VAC50-60-1240 that] includes the following:

a. A list of best management practices (BMPs) that the operator proposes to implement for each of the stormwater minimum control measures and their associated measurable goals pursuant to 4VAC50-60-1240, Section II B, that includes:

(1) A list of the existing policies, ordinances, schedules, inspection forms, written procedures, and [any] other documents necessary for best management practice implementation [, upon which the operator expects to rely for such implementation]; and

(2) The individuals, departments, divisions, or units responsible for implementing the best management practices;

b. The objective and expected results of each best management practice in meeting the measurable goals of the stormwater minimum control measures;

c. The implementation schedule [for BMPs] including any interim milestones for the implementation of a proposed new best management practice; and

d. The method that will be utilized to determine the effectiveness of each best management practice and the MS4 Program as a whole;

~~8- 9.~~ 9. A list of all existing signed agreements between the operator and any applicable third parties where the operator has entered into an agreement in order to implement minimum control measures or portions of minimum control measures;

~~9- 10.~~ 10. The name, address, telephone number and email address of either the principal executive officer or ranking elected official as defined in 4VAC50-60-370;

~~10- 11.~~ 11. The name, position title, address, telephone number and email address of any duly authorized representative as defined in 4VAC50-60-370; and

~~11- 12.~~ 12. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware

that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

C. The registration statement shall be signed ~~by the principal executive officer or ranking elected official~~ in accordance with 4VAC50-60-370.

D. An operator may file its own registration statement, or the operator and other operators of ~~regulated~~ small MS4s may jointly submit a registration statement. If responsibilities for meeting the stormwater minimum control measures will be shared with other municipalities or governmental entities, the registration statement must describe which stormwater minimum control measures the operator will implement and identify the entities that will implement the other stormwater minimum control measures within the area served by the [~~regulated~~] small MS4.

E. Where to submit. The registration statement shall be submitted to [~~the department.~~]

<div>Department of Conservation and Recreation Division of Soil and Water Conservation Stormwater Permitting 203 Governor Street, Suite 206 Richmond, VA 23219 [Department of Conservation and Recreation Stormwater Permitting 600 East Main Street 4th Floor Richmond, VA 23219]</div>

4VAC50-60-1240

4VAC50-60-1240. General permit.

Any operator whose registration statement is accepted by the department will receive coverage under the following state permit and shall comply with the requirements therein and be subject to all applicable requirements of the Virginia Stormwater Management Act (Article 1.1 (B§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia) and the Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60).

General Permit No.: VAR04

Effective Date: ~~July 9, 2008~~ July 1, 2013

Expiration Date: ~~July 8, 2013~~ June 30, 2018

GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER MANAGEMENT PROGRAM AND THE VIRGINIA STORMWATER MANAGEMENT ACT

In compliance with the provisions of the Clean Water Act, as amended and pursuant to the Virginia Stormwater Management Act and regulations adopted pursuant thereto, this state permit authorizes operators of small municipal separate storm sewer systems to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in State Water Control Board and Virginia Soil and Water Conservation Board regulations ~~or policies~~ which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Section IB—Discharge Authorization and Special Conditions, Section IIB—MS4 Program and Section IIIB—Conditions Applicable To All State Permits, as set forth herein. The operator shall utilize all legal authority provided by the laws and regulations of the Commonwealth of Virginia to control discharges to and from the MS4. This legal authority may be a combination of statute, ordinance, permit, specific contract language, order or interjurisdictional agreements.

[For operators of small MS4s that are applying for initial coverage under this general permit, the schedule to develop and implement the MS4 Program Plan shall be submitted with the completed registration statement.]

For operators [who that] have previously held MS4 state permit coverage, the operator shall update the MS4 Program Plan in accordance with the following schedule. Until such time as the required updates are completed and implemented, the operator shall continue to implement the MS4 Program consistent with the MS4 Program Plan submitted with the registration statement.

[For operators of small MS4s that are applying for initial coverage under this general permit, the schedule to develop and implement the MS4 Program Plan shall be submitted with the completed registration statement.

Table 1: Schedule of MS4 Program Plan Updates Required in this Permit		
Program Update Requirement	Permit Reference	Update Completed By
<u>Updated TMDL Action Plans (TMDLs approved before July of 2008)</u>	<u>Section I B</u>	<u>24 months after permit coverage</u>
<u>Other TMDL Action Plans for applicable TMDLs approved between July 2008 and June 2013</u>	<u>Section I B</u>	<u>36 months after permit coverage</u>
<u>TMDL Action Plans for applicable TMDLs approved after June of 2013</u>	<u>Section I</u>	<u>36 months after notification by the department of their approval</u>
<u>Chesapeake Bay TMDL Action Plan</u>	<u>Section I C</u>	<u>24 months after permit coverage</u>
<u>Public Education Outreach Plan</u>	<u>Section II B</u>	<u>12 months after permit coverage</u>
<u>Outfall Map Completed</u>	<u>Section II B</u>	<u>48 months after permit coverage</u>
<u>Illicit Discharge Procedures</u>	<u>Section II B</u>	<u>12 months after permit coverage</u>
<u>Single Family SWM Special Criteria</u>	<u>Section II B</u>	<u>12 months after permit coverage</u>
<u>Stormwater Management Progressive Compliance and Enforcement</u>	<u>Section II B</u>	<u>24 months after permit coverage</u>
<u>Operator Owned Stormwater Management Inspection Procedures</u>	<u>Section II B</u>	<u>12 months after permit coverage</u>
<u>Daily Good Housekeeping Procedures</u>	<u>Section II B</u>	<u>24 months after permit coverage</u>
<u>SWPPP Locations</u>	<u>Section II B</u>	<u>12 months after permit coverage</u>
<u>SWPPP Implementation</u>	<u>Section II B</u>	<u>60 months after permit coverage with internal goals</u>
<u>Nutrient Management Plan (NMP) Locations</u>	<u>Section II B</u>	<u>12 months after permit coverage</u>
<u>NMP Implementation</u>	<u>Section II B</u>	<u>60 months after permit coverage</u>
<u>Training Schedule and Program</u>	<u>Section II B</u>	<u>12 months after permit coverage]</u>

[Table 1: Schedule of MS4 Program Plan Updates Required in this Permit		
Program Update Requirement	Permit Reference	Update Completed By

<u>Public Education Outreach Plan (Minimum Control Measure 1 B– Public Education and Outreach on Stormwater Impacts)</u>	<u>Section II B 1</u>	<u>12 months after permit coverage</u>
<u>Illicit Discharge Procedures - (Minimum Control Measure 3 B– Illicit Discharge Detection and Elimination)</u>	<u>Section II B 3</u>	
<u>Individual Residential Lot Special Criteria (Minimum Control Measure 5 B– Post-Construction Stormwater Management in New Development and Development on Prior Developed Lands)</u>	<u>Section II B 5 c (1) (d)</u>	
<u>Operator-Owned Stormwater Management Inspection Procedures (Minimum Control Measure 5 B– Post-Construction Stormwater Management in New Development and Development on Prior Developed Lands)</u>	<u>Section II B 5</u>	
<u>Identification of Locations Requiring SWPPPs (Minimum Control Measure 6 B– Pollution Prevention/Good Housekeeping for Municipal Operations)</u>	<u>Section II B 6 b</u>	
<u>Nutrient Management Plan (NMP) Locations - (Minimum Control Measure 6 B– Pollution Prevention/Good Housekeeping for Municipal Operations)</u>	<u>Section II B 6 c (1) (a)</u>	
<u>Training Schedule and Program - (Minimum Control Measure 6 B– Pollution Prevention/Good Housekeeping for Municipal Operations)</u>	<u>Section II B 6</u>	<u>24 months after permit coverage</u>
<u>Updated TMDL Action Plans (TMDLs approved before July of 2008) B– (Special Conditions for Approved Total Maximum Daily Loads (TMDL) Other Than Chesapeake Bay)</u>	<u>Section I B</u>	
<u>Chesapeake Bay TMDL Action Plan B– (Special Condition for Chesapeake Bay TMDL)</u>	<u>Section I C</u>	
<u>Stormwater Management Progressive Compliance and Enforcement B– (Minimum Control Measure 4 - Construction Site Stormwater Runoff Control)</u>	<u>Section II B 5</u>	
<u>Daily Good Housekeeping Procedures (Minimum Control Measure 6 B– Pollution Prevention/Good Housekeeping for Municipal Operations)</u>	<u>Section II B 6 a</u>	
<u>Other TMDL Action Plans for applicable TMDLs approved between July 2008 and June 2013 - (Special Conditions for Approved Total Maximum Daily Loads (TMDL) Other Than Chesapeake Bay)</u>	<u>Section I B</u>	<u>36 months after permit coverage</u>
<u>Outfall Map Completed - (Minimum Control Measure 3 B– Illicit Discharge Detection and Elimination) B– Applicable to new boundaries identified as B“urbanizedB” areas in the 2010 Decennial Census</u>	<u>Section II B 3 a (3)</u>	<u>48 months after permit coverage</u>
<u>SWPPP Implementation - (Minimum Control Measure 6 B– Pollution Prevention/Good</u>	<u>Section II B 6 b (3)</u>	

Housekeeping for Municipal Operations)		
NMP Implementation - (Minimum Control Measure 6 B- Pollution Prevention/Good Housekeeping for Municipal Operations)	Section II B 6 c (1) (b)	60 months after permit coverage
*Updates should be submitted with the appropriate annual report.]		

SECTION I DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

A. Coverage under this state permit. During the period beginning with the date of coverage under this general permit and lasting until the expiration and reissuance of this state permit, the operator is authorized to discharge in accordance with this state permit from the small municipal separate storm sewer system identified in the registration statement into surface waters [within the boundaries of the Commonwealth of Virginia and consistent with 4VAC50-60-1230].

~~B. Special conditions. A total maximum daily load (TMDL) approved by the State Water Control Board may include a wasteload allocation to the regulated small MS4 that identifies the pollutant for which stormwater controls are necessary for the surface waters to meet water quality standards. The pollutant identified in a wasteload allocation as of the effective date of this permit must be addressed through the measurable goals of the MS4 Program Plan. A wasteload allocation does not establish that the operator of a regulated small MS4 is in or out of compliance with the conditions of this permit.~~

~~1. The operator shall update its MS4 Program Plan to include measurable goals, schedules, and strategies to ensure MS4 Program consistency with the assumptions of the TMDL WLA within 18 months of permit coverage; or, within 18 months of the effective date of any reopening of this permit to include wasteloads allocated to the regulated small MS4 after issuance of permit coverage.~~

~~2. The measurable goals, schedules, strategies, and other best management practices (BMPs), required in an updated MS4 Program Plan to assure MS4 Program consistency with an approved TMDL for the pollutant identified in a WLA are, at a minimum:~~

~~a. The operator shall develop a list of its current ordinances and legal authorities, BMPs, policies, plans, procedures and contracts implemented as part of the MS4 Program that are applicable to reducing the pollutant identified in a WLA.~~

~~b. The operator shall evaluate existing ordinances and legal authorities, BMPs, policies, plans, procedures and contracts of the existing MS4 Program to determine the effectiveness of the MS4 Program in addressing reductions of the pollutant identified in the WLA. The evaluation shall identify any weakness or limitation in the MS4 Program to reduce the pollutant identified in the WLA in a manner consistent with the TMDL.~~

~~c. The operator shall develop a schedule to implement procedures and strategies that address the MS4 Program weaknesses such as timetables to update existing ordinances and legal authorities within two years, BMPs, policies, plans, procedures and contracts to ensure consistency with the assumptions of the TMDL WLA. When possible, source elimination shall be prioritized over load reduction.~~

~~d. The operator shall implement the schedule established in Section I B 2 c.~~

~~3. The operator shall integrate an awareness campaign into its existing public education and outreach program that promotes methods to eliminate and reduce discharges of the pollutant identified in the WLA. This may include additional employee training regarding the sources and methods to eliminate and minimize the discharge of the pollutant identified in the WLA.~~

~~4. The operator is encouraged to participate as a stakeholder in the development of any implementation plans developed to address the TMDL and shall incorporate applicable best management practices identified in the TMDL implementation plan in their MS4 Program Plan. The operator may choose to implement BMPs of equivalent design and efficiency instead of those identified in the TMDL implementation plan, provided that the rationale for any substituted BMP is provided and the substituted BMP is consistent with the TMDL and the WLA.~~

5. The operator shall develop and implement outfall reconnaissance procedures to identify potential sources of the pollutant identified in the WLA from anthropogenic activities. The operator shall conduct reconnaissance in accordance with the following:

- a. Should the operator have 250 or more total outfalls discharging to the surface water identified in the WLA, the operator shall perform reconnaissance on a minimum of 250 outfalls for each WLA assigned at least once during the five-year permit period and shall perform reconnaissance on a minimum of 35 outfalls per year.
- b. Should the operator have less than 250 total outfalls discharging to an identified surface water, the operator shall perform reconnaissance on all outfalls during the five-year permit period and shall annually conduct reconnaissance on a minimum of 15% of its known MS4 outfalls discharging to the surface water for which the WLA has been assigned.

The department recommends that the operator review the publication entitled "Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments," EPA cooperative agreement number X-82907801-0, for guidance in implementing its outfall reconnaissance procedures. The operator shall implement procedures designed to reduce the discharge of the pollutant in a manner consistent with the TMDL. Physically interconnected MS4s may coordinate outfall reconnaissance to meet the requirements of this subdivision.

6. The operator shall evaluate all properties owned or operated by the MS4 operator that are not covered under a separate VPDES permit for potential sources of the pollutant identified in the WLA. Within three years of the required date for updating the MS4 Program Plan, the operator shall conduct a site review and characterize the runoff for those properties where it determines that the pollutant identified in the WLA is currently stored, or has been transferred, transported or historically disposed of in a manner that would expose it to precipitation in accordance with the following schedule:

a. As a part of the site review, the operator shall collect a total of two samples from a representative outfall for each identified municipal property. One sample shall be taken during each of the following six-month periods: October through March, and April through September.

b. All collected samples shall be grab samples and collected within the first 30 minutes of a runoff producing event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previous measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the property. The required 72-hour storm event interval may also be waived where the operator documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. Analytical methods shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the Environmental Protection Agency (EPA). Where an approved 40 CFR Part 136 method does not exist, the operator must use a method consistent with the TMDL.

c. For properties where there is found to be a discharge of the pollutant identified in the WLA, the operator shall develop and implement a schedule to minimize the discharge of the pollutant identified in the WLA in a manner consistent with the approved TMDL.

7. The operator shall conduct an annual characterization that estimates the volume of stormwater discharged, in cubic feet, and the quantity of pollutant identified in the WLA, in a unit consistent with the WLA, discharged by the regulated small MS4.

8. As part of the annual evaluation, the operator shall update the MS4 Program Plan to include any new information regarding the TMDL in order to ensure consistency with the TMDL.

9. Along with reporting requirements in Section II E, the operator shall include the following with each annual report:

a. Copies of any updates to the MS4 Program Plan completed during the reporting cycle and any new information regarding the TMDL in order to evaluate its ability to assure the consistency of its discharge with the assumptions of the TMDL WLA.

b. The estimate of the volume of stormwater discharged, in cubic feet, and the quantity of pollutant identified in the WLA, in a unit consistent with the WLA discharged by the regulated small MS4 for each WLA.

B. Special conditions for approved total maximum daily loads (TMDL) other than the Chesapeake Bay TMDL. An approved TMDL may allocate an applicable wasteload to a small MS4 that identifies a pollutant or pollutants for which additional stormwater controls are necessary for the surface waters to meet water quality standards. The MS4 operator shall address the pollutants in accordance with this special condition where the MS4 has been allocated a wasteload in an approved TMDL.

1. The operator shall maintain an updated MS4 Program Plan that includes a specific TMDL Action Plan for pollutants allocated to the MS4 in approved TMDLs. TMDL Action Plans may be implemented in multiple phases over more than one state permit cycle using the adaptive iterative approach provided adequate progress [to reduce the pollutant discharge in a manner consistent with the assumptions and requirements of the specific TMDL wasteload is demonstrated in accordance with subdivision 2 e of this subsection]. These TMDL Actions Plans shall identify the best management practices and other [~~implementation steps~~ interim milestone activities] to be implemented during the remaining terms of this state permit.

a. In accordance with Table 1 in this section, the operator shall update the MS4 Program Plans to address any new or modified requirements established under this special condition for pollutants identified in TMDL wasteload allocations approved prior to July [§ 9], 2008.

b. In accordance with Table 1 in this section, the operator shall update the MS4 Program Plan to incorporate [approvable TMDL] Action Plans that identify the best management practices and other [~~implementation steps~~ interim milestone activities] that will be implemented during the remaining term of this permit for pollutants identified in TMDL wasteload allocations approved either on or after July [§ 9], 2008, and prior to issuance of this permit.

[~~c. In accordance with Table 1 in this section, the operator shall update the MS4 Program Plan with TMDL Action Plans that identify the best management practices and that will be implemented during the remaining term of this state permit for pollutants identified in TMDL wasteload allocations approved after issuance of this permit for impairment listed on the 2012 BS 303(d)/305(b) list and for which a TMDL schedule identifies its development as occurring during this state permit cycle.~~

c. Unless specifically denied in writing by the department, TMDL Action Plans and updates developed in accordance with this section become effective and enforceable 90 days after the date received by the department.]

2. The operator shall:

a. Develop and maintain a list of its legal authorities such as ordinances, state and other permits, orders, specific contract language, and interjurisdictional agreements applicable to reducing the pollutant identified in [a each applicable] WLA;

b. Identify and maintain an updated list of all additional management practices, control techniques and system design and engineering methods, beyond those identified in Section II B, that have been implemented as part of the MS4 Program Plan that are applicable to reducing the pollutant identified in the WLA;

c. Enhance [the its] public education and outreach and employee training programs to also promote methods to eliminate and reduce discharges of the pollutants identified in the WLA;

d. Assess all [significant sources of pollutant(s) from] facilities of concern owned or operated by the MS4 operator that are not covered under a separate VPDES permit and identify all municipal facilities that may be a significant source of the identified pollutant. For the [purpose purposes] of this assessment, [a] significant [source is identified as facilities of concern source of pollutant(s) from a facility of concern means a discharge] where the [expected] pollutant [discharge loading] is [expected to be] greater than [that the] average [~~expected existing discharge~~ pollutant loading] for the land use identified in the TMDL. [() For example, [the discharge of bacteria a significant source of pollutant from a facility of concern for a bacteria TMDL] would be expected to be greater at a dog park than at other recreational facilities where dogs are prohibited. []]

e. Develop and implement a method to assess TMDL Action Plans for their effectiveness in reducing the pollutants identified in the WLAs. The evaluation shall use any newly available information, [representative and adequate] water quality monitoring results, or modeling tools to estimate pollutant reductions for the pollutant or pollutants of concern from implementation of the MS4 Program Plan. Monitoring may include

BMP, outfall, or in-stream monitoring, as appropriate, to estimate pollutant reductions. The operator may conduct monitoring, utilize existing data, establish partnerships, or collaborate with other MS4 operators or other third parties, as appropriate. This evaluation shall include assessment of the facilities identified in subdivision 2 d of this [~~subsection~~ subsection]. The methodology used for assessment shall be described in the TMDL Action Plan.

3. Analytical methods for any monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the Environmental Protection Agency (EPA). Where an approved [~~40 CFR Part 136~~] method does not exist, the operator must use a method consistent with the TMDL.

4. The operator is encouraged to participate as a stakeholder in the development of any TMDL implementation plans applicable to their discharge. The operator may incorporate applicable best management practices identified in the TMDL implementation plan in the MS4 Program Plan or may choose to implement BMPs of equivalent design and efficiency provided that the rationale for any substituted BMP is provided and the substituted BMP is consistent with the assumptions and requirements of the TMDL WLA.

5. Annual reporting requirements.

a. The operator shall submit the required TMDL Action Plans with the appropriate annual report [and in accordance with the] associated schedule identified in this state permit.

b. [~~The~~ On an annual basis, the] operator shall report on the implementation of the TMDL Action Plans and associated evaluation including the results of any monitoring conducted as part of the evaluation.

6. The operator shall identify the best management practices and other steps that will be implemented during the next state permit term as part of the operator's reapplication for coverage as required under Section III M.

[7. For planning purposes, the operator shall include an estimated end date for achieving the applicable wasteload allocations as part of its reapplication package due in accordance with Section III M.

C. Special condition for the Chesapeake Bay TMDL. [The Commonwealth in its Phase I and Phase II Chesapeake Bay TMDL Watershed Implementation Plans (WIP) committed to a phased approach for MS4s, affording MS4 operators up to three full five-year permit cycles to implement necessary reductions. This permit is consistent with the Chesapeake Bay TMDL and the Virginia Phase I and II WIPs to meet the Level 2 (L2) scoping run for existing developed lands as it represents an implementation of 5.0% of L2 as specified in the 2010 Phase I WIP. Conditions of future permits will be consistent with the TMDL or WIP conditions in place at the time of permit issuance.]

1. Definitions. The following definitions apply to this state permit for the purpose of the special condition for discharges in the Chesapeake Bay Watershed:

"Existing sources" means pervious and impervious urban land uses [~~served~~ served] by the MS4 as of June 30, 2009.

"New sources" means pervious and impervious urban land uses served by the MS4 developed [or redeveloped] on or after July 1, 2009.

["Pollutants of concern" or "POC" means total nitrogen, total phosphorus, and total suspended solids.]

"Transitional sources" means regulated land disturbing activities that are temporary in nature and discharge through the MS4.

[~~"Pollutants of concern" or "POC" means total nitrogen, total phosphorus, and total suspended solids.~~]

2. Chesapeake Bay TMDL planning.

a. In accordance with Table 1 in this section, the operator shall develop and submit [~~a phased~~ to the department for its review and acceptance an approvable] Chesapeake Bay TMDL Action Plan [~~that includes~~. Unless specifically denied in writing by the department, this plan becomes effective and enforceable 90 days after the date received by the department. The plan shall include:]

(1) A review of the [~~baseline~~ current MS4] program implemented as a requirement of this state permit including a review of the existing legal authorities [and the operator's ability to ensure compliance with this special condition];

(2) The identification of any new or modified legal authorities such as ordinances, state and other permits, orders, [~~contracts~~ specific contract language,] and interjurisdictional agreements implemented or needing to be implemented to meet the requirements of this special condition;

(3) The means and methods that will be utilized to address discharges into the MS4 from new sources;

(4) An estimate of the annual POC loads discharged from the existing sources as of June 30, [~~2008~~ 2009], based on the 2009 progress run. The operator shall utilize the [~~appropriate versions~~ applicable versions] of [~~Table 2~~ Tables 2 a-d] in this section based on the river basin to which the MS4 discharges by multiplying the total existing acres served by the MS4 on June 30, 2009, and the 2009 [Edge of Stream (EOS)] loading rate:

Table 2 a: Calculation Sheet for Estimating Existing Source Loads for the James River Basin

[*Based on Chesapeake Bay Program Watershed Model Phase 5.3.2]

<u>Subsource</u>	<u>Pollutant</u>	<u>Total Existing Acres Served by MS4 (6/30/09)</u>	<u>2009 EOS Loading Rate (lbs/ [ac acre])</u>	<u>Estimated Total POC Load Based on 2009 Progress Run</u>
<u>Regulated Urban Impervious</u>	<u>Nitrogen</u>		9.39	
<u>Regulated Urban Pervious</u>			6.99	
<u>Regulated Urban Impervious</u>	<u>Phosphorus</u>		1.76	
<u>Regulated Urban Pervious</u>			0.5	
<u>Regulated Urban Impervious</u>	<u>Total Suspended Solids</u>		676.94	
<u>Regulated Urban Pervious</u>			101.08	

Table 2 b: Calculation Sheet for Estimating Existing Source Loads for the Potomac River Basin

[*Based on Chesapeake Bay Program Watershed Model Phase 5.3.2]

<u>Subsource</u>	<u>Pollutant</u>	<u>Total Existing Acres Served by MS4 (6/30/09)</u>	<u>2009 EOS Loading Rate (lbs/ [ac acre])</u>	<u>Estimated Total POC Load Based on 2009 Progress Run</u>
<u>Regulated Urban Impervious</u>	<u>Nitrogen</u>		16.86	
<u>Regulated Urban Pervious</u>			10.07	
<u>Regulated Urban Impervious</u>	<u>Phosphorus</u>		1.62	

Regulated Urban Pervious			0.41	
Regulated Urban Impervious	Total Suspended Solids		1,171.32	
Regulated Urban Pervious			175.8	

Table 2 c: Calculation Sheet for Estimating Existing Source Loads for the Rappahannock River Basin

[*Based on Chesapeake Bay Program Watershed Model Phase 5.3.2]

<u>Subsource</u>	<u>Pollutant</u>	<u>Total Existing Acres Served by MS4 (6/30/09)</u>	<u>2009 EOS Loading Rate (lbs/ [ae acre])</u>	<u>Estimated Total POC Load Based on 2009 Progress Run</u>
Regulated Urban Impervious	Nitrogen		9.38	
Regulated Urban Pervious			5.34	
Regulated Urban Impervious	Phosphorus		1.41	
Regulated Urban Pervious			0.38	
Regulated Urban Impervious	Total Suspended Solids		423.97	
Regulated Urban Pervious			56.01	

Table 2 d: Calculation Sheet for Estimating Existing Source Loads for the York River Basin

[*Based on Chesapeake Bay Program Watershed Model Phase 5.3.2]

<u>Subsource</u>	<u>Pollutant</u>	<u>Total Existing Acres Served by MS4 (6/30/09)</u>	<u>2009 EOS Loading Rate (lbs/ [ae acre])</u>	<u>Estimated Total POC Load Based on 2009 Progress Run</u>
Regulated Urban Impervious	Nitrogen		7.31	
Regulated Urban Pervious			7.65	
Regulated Urban Impervious	Phosphorus		1.51	
Regulated Urban Pervious			0.51	
Regulated Urban Impervious	Total Suspended Solids		456.68	
Regulated Urban Pervious			72.78	

(5) [~~An estimate of the total reductions necessary~~ A determination of the total pollutant load reductions necessary] to reduce the annual POC loads from existing sources [~~to the L2 implementation level~~] utilizing

the [~~appropriate version~~ applicable versions] of [~~Table 3~~ Tables 3 a-d] in this section based on the river basin to which the MS4 discharges. This shall be calculated by multiplying the total existing acres [~~service served~~] by the MS4 [~~during the first state permit cycle required reduction in loading rate. Existing sources located in any portion of an expanded urbanized area or new urbanized area identified as part of an urbanized area by the 2010 U.S. Census shall not be included in the total acreage in determining the 5.0% reduction requirement in this state permit by the first permit cycle required reduction in loading rate~~]. [For the purposes of this determination, the operator shall utilize those existing acres identified by the 2000 U.S. Census Bureau urbanized area and served by the MS4.]

Table 3 a: Calculation Sheet for Determining Total POC Reductions Required During this Permit Cycle for the James River Basin

[*Based on Chesapeake Bay Program Watershed Model Phase 5.3.2]

<u>Subsource</u>	<u>Pollutant</u>	<u>Total Existing Acres Served by MS4 ([7/1/09 6/30/09])</u>	<u>First Permit Cycle [Requiring Required] Reduction in Loading Rate (lbs/ [ac acre])</u>	<u>Total Reduction Required First Permit Cycle (lbs)</u>
Regulated Urban Impervious	Nitrogen		0.04	
Regulated Urban Pervious			0.02	
Regulated Urban Impervious	Phosphorus		0.01	
Regulated Urban Pervious			0.002	
Regulated Urban Impervious	Total Suspended Solids		6.67	
Regulated Urban Pervious			0.44	

Table 3 b: Calculation Sheet for Determining Total POC Reductions Required During this Permit Cycle for the Potomac River Basin

[*Based on Chesapeake Bay Program Watershed Model Phase 5.3.2]

<u>Subsource</u>	<u>Pollutant</u>	<u>Total Existing Acres Served by MS4 ([7/1/09 6/30/09])</u>	<u>First Permit Cycle [Requiring Required] Reduction in Loading Rate (lbs/ [ac acre])</u>	<u>Total Reduction Required First Permit Cycle (lbs)</u>
Regulated Urban Impervious	Nitrogen		0.08	
Regulated Urban Pervious			0.03	
Regulated Urban	Phosphorus		0.01	

<u>Impervious</u>				
<u>Regulated Urban Pervious</u>			<u>0.001</u>	
<u>Regulated Urban Impervious</u>	<u>Total Suspended Solids</u>		<u>11.71</u>	
<u>Regulated Urban Pervious</u>			<u>0.77</u>	

Table 3 c: Calculation Sheet for Determining Total POC Reductions Required During this Permit Cycle for the Rappahannock River Basin

[*Based on Chesapeake Bay Program Watershed Model Phase 5.3.2]

<u>Subsource</u>	<u>Pollutant</u>	<u>Total Existing Acres Served by MS4 ([7/1/09 6/30/09])</u>	<u>First Permit Cycle [Requiring Required] Reduction in Loading Rate (lbs/ [ac acre])</u>	<u>Total Reduction Required First Permit Cycle (lbs)</u>
<u>Regulated Urban Impervious</u>	<u>Nitrogen</u>		<u>0.04</u>	
<u>Regulated Urban Pervious</u>			<u>0.02</u>	
<u>Regulated Urban Impervious</u>	<u>Phosphorus</u>		<u>0.01</u>	
<u>Regulated Urban Pervious</u>			<u>0.002</u>	
<u>Regulated Urban Impervious</u>	<u>Total Suspended Solids</u>		<u>4.24</u>	
<u>Regulated Urban Pervious</u>			<u>0.25</u>	

Table 3 d: Calculation Sheet for Determining Total POC Reductions Required During this Permit Cycle for the York River Basin

[*Based on Chesapeake Bay Program Watershed Model Phase 5.3.2]

<u>Subsource</u>	<u>Pollutant</u>	<u>Total Existing Acres Served by MS4 ([7/1/09 6/30/09])</u>	<u>First Permit Cycle [Requiring Required] Reduction in Loading Rate (lbs/ [ac acre])</u>	<u>Total Reduction Required First Permit Cycle (lbs)</u>
<u>Regulated Urban Impervious</u>	<u>Nitrogen</u>		<u>0.03</u>	
<u>Regulated Urban</u>			<u>0.02</u>	

<u>Pervious</u>				
<u>Regulated Urban Impervious</u>	<u>Phosphorus</u>		<u>0.01</u>	
<u>Regulated Urban Pervious</u>			<u>0.002</u>	
<u>Regulated Urban Impervious</u>	<u>Total Suspended Solids</u>		<u>4.60</u>	
<u>Regulated Urban Pervious</u>			<u>0.32</u>	

(6) The means and methods [~~that will be utilized to implement sufficient reductions from existing sources equal to 5.0% of the estimated total reductions necessary. The methodology may incorporate reductions documented through the implementation of this state permit, such as management practices and retrofit programs that will be utilized to meet the required reductions included in subdivision 2 a (5) of this subsection, and a schedule to achieve those reductions. The schedule should include annual benchmarks to demonstrate the ongoing progress in meeting those reductions~~];

(7) The means and methods to offset the increased loads from new sources initiating construction between July 1, 2009, and June 30, 2014, that disturb [~~greater than~~] one acre [or greater] as a result of the utilization of an average land cover condition greater than 16% impervious cover for the design of post-development stormwater management facilities. The operator shall utilize Table 4 in this section to develop the equivalent pollutant load for nitrogen and total suspended solids. The operator shall offset 5.0% of the calculated increased load from these new sources during the permit cycle.

(8) The means and methods to offset the increased loads from [~~grandfathered~~] projects [as grandfathered in accordance with 4VAC50-60-48,] that disturb [~~greater than~~] one acre [or greater] that begin construction after July 1, 2014, where the project [~~utilized~~ utilizes] an average land cover condition greater than 16% impervious cover in the design of post-development stormwater management facilities. The operator shall utilize Table 4 in this section to develop the equivalent pollutant load for nitrogen and total suspended solids.

(9) The operator shall address any modification to the TMDL or watershed implementation plan that occurs during the term of this state permit as part of its permit reapplication and not during the term of this state permit.

<u>Table 4: Ratio of Phosphorus Loading Rate to Nitrogen and Total Suspended Solids Loading Rates for Chesapeake Bay Basins</u>			
<u>Ratio of Phosphorus to Other POCs (Based on All Land Uses 2009 Progress Run)</u>	<u>Phosphorus Loading Rate (lbs/ [ac acre])</u>	<u>Nitrogen Loading Rate (lbs/ [ac acre])</u>	<u>Total Suspended Solids Loading Rate (lbs/ [ac acre])</u>
<u>James River Basin</u>	<u>1.0</u>	<u>5.2</u>	<u>420.9</u>
<u>Potomac River Basin</u>	<u>1.0</u>	<u>6.9</u>	<u>469.2</u>
<u>Rappahannock River Basin</u>	<u>1.0</u>	<u>6.7</u>	<u>320.9</u>
<u>York River Basin</u>	<u>1.0</u>	<u>9.5</u>	<u>531.6</u>

(10) A list of future projects and associated acreage that qualify as grandfathered in accordance with 4VAC50-60-48;

(11) An estimate of the expected costs to implement the requirements of this special condition during the state permit cycle; and

(12) An opportunity for receipt and consideration of public comment regarding the draft Chesapeake Bay TMDL Action Plan.

b. As part of development of the Chesapeake Bay TMDL Action Plan, the operator may consider:

(1) ~~[Placement Implementation] of BMPs on unregulated lands [.Reductions may only be credited towards the required reductions after any required unregulated land baseline pollutant reductions are met for treated acres provided any necessary baseline reduction is not included toward meeting the required reduction in this permit;]~~

(2) Utilization of stream restoration projects [, provided that the credit applied to the required POC load reduction is prorated based on the ratio of regulated urban acres to total drainage acres upstream of the restored area];

(3) Establishment of a memorandum of understanding (MOU) with other MS4 operators that discharge to the same or adjacent eight digit hydrologic unit [within the same basin] to implement BMPs collectively. The MOU shall include a mechanism for dividing the POC reductions created by BMP implementation between the cooperative MS4s;

(4) Utilization of any pollutant trading or offset program in accordance with ~~[BSBS 10.1-603.8:1 and BS 10.1-603.15:1 [et seq.] of the Code of Virginia, governing trading and offsetting; [and]~~

(5) A more stringent average land cover condition based on less than 16% impervious cover for new sources initiating construction between July 1, 2009, and June 30, 2014, and all grandfathered projects where allowed by law [; and]

[(6) Any BMPs installed after June 30, 2009, as part of a retrofit program may be applied towards meeting the required load reductions provided any necessary baseline reductions are not included.]

3. Chesapeake Bay TMDL Action Plan implementation. The operator shall implement the TMDL Action Plan ~~[to the maximum extent practicable and demonstrate according to the schedule therein. Compliance with this requirement represents]~~ adequate progress for this state permit term towards ~~[the long-term compliance targets for TMDL wasteload allocations achieving TMDL wasteload allocations consistent with the assumptions and requirements of the TMDL]~~. For the purposes of this permit, the implementation of the following represents implementation to the maximum extent practicable and demonstrates adequate progress:

a. Implementation of nutrient management plans in accordance with the schedule identified in the minimum control measure in Section II related to pollution prevention/good housekeeping for municipal operations;

b. Implementation of the minimum control measure in Section II related to construction site stormwater runoff control in accordance with this state permit shall address discharges from transitional sources;

c. Implementation of the means and methods to address discharges from new sources in accordance with the minimum control measure in Section II related to post-construction stormwater management in new development and development of prior developed lands and in order to offset 5.0% of the total increase in POC loads between July 1, 2009, and June 30, 2014. Increases in the POC load from grandfathered projects initiating construction after July 1, 2014, must be offset prior to completion of the project; and

d. Implementation of means and methods sufficient to meet ~~[5.0% of the total the]~~ required reductions of POC loads from existing sources in accordance with the Chesapeake Bay TMDL Action Plan.

4. Annual reporting requirements.

a. In accordance with Table 1 in this section, the operator shall submit the Chesapeake Bay Action Plan ~~[with the appropriate annual report]~~.

b. Each subsequent annual report shall ~~[included include]~~ a list of control measures implemented during the reporting period and the cumulative progress toward meeting the compliance targets for ~~[total]~~ nitrogen, phosphorus, and total suspended ~~[soils solids]~~.

c. Each subsequent annual report shall include a list of control measures ~~[.]~~ in an electronic format provided by the department ~~[.]~~ that were implemented during the reporting cycle and the estimated reduction achieved by the control. For stormwater management controls, the report shall include the information

required in Section II B 5 e and shall include whether an existing stormwater management control was retrofitted, and if so, the existing stormwater management control type retrofit used.

d. Each annual report shall include a list of control measures that are expected to be implemented during the next reporting period and the expected progress toward meeting the compliance targets for [total] nitrogen, phosphorus, and total suspended solids.

5. The operator shall include the following as part of its reapplication package due in accordance with Section III M:

a. Documentation that sufficient control measures have been implemented to meet the compliance target identified in this special condition. If temporary credits or offsets have been purchased in order to meet the compliance target, the list of temporary reductions utilized to meet the [5.0% required] reduction in this state permit and a schedule of implementation to ensure [a the] permanent [5.0%] reduction must be provided; and

b. A draft second phase Chesapeake Bay TMDL Action Plan designed to reduce the existing pollutant load [by an additional 35% (or a total of 40% if more than a 5.0% reduction is achieved during the first phase) as determined using Table 3 in this section unless alternative calculations have been provided by the Commonwealth; as follows:

(1) The existing pollutant of concern loads by an additional seven times the required reductions in loading rates using the applicable Table 3 for sources included in the 2000 U.S. Census Bureau urbanized areas;

(2) The existing pollutant of concerns loads by an additional eight times the required reductions in loading rates using the applicable Table 3 for expanded sources identified in the U.S. Census Bureau 2010 urbanized areas;

(3) An additional 35% reduction in new sources developed between 2009 and 2014 and for which the land use cover condition was greater than 16%; and

(4) Accounts for any modifications to the applicable loading rate provided to the operator as a result of TMDL modification.]

SECTION II

MUNICIPAL SEPARATE STORM SEWER SYSTEM MANAGEMENT PROGRAM

A. The operator of a ~~regulated~~ small MS4 must develop, implement, and enforce a MS4 Program designed to reduce the discharge of pollutants from the ~~regulated~~ small MS4 to the maximum extent practicable (MEP), to protect water quality, to ensure compliance by the operator with water quality standards, and to satisfy the appropriate water quality requirements of the Clean Water Act and [its attendant] regulations. The MS4 Program must include the minimum control measures described in paragraph B of this section. Implementation of best management practices consistent with the provisions of an iterative MS4 Program required pursuant to this section constitutes compliance with the standard of reducing pollutants to the "maximum extent practicable", protects water quality in the absence of a TMDL wasteload allocation, ensures compliance by the operator with water quality standards, and satisfies the appropriate water quality requirements of the Clean Water Act and regulations in the absence of a TMDL WLA. The requirements of this section and those special conditions set out in Section I B also apply where a WLA is applicable.

~~No later than January 9, 2009, the operator shall review its existing MS4 Program Plan and submit a schedule to develop and implement programs to meet the conditions established by this permit. For operators of regulated small MS4s that are applying for initial coverage under this general permit, the schedule to develop and implement the MS4 Program Plan shall be submitted with the completed registration statement.~~

B. Minimum control measures.

[NOTE regarding minimum control measures for public education and outreach on stormwater impacts and public involvement/participation: "Public" is not defined in this permit. However, the department concurs with the following EPA statement, which was published in the Federal Register, Volume 64, No. 235, page 68,750 on December 8, 1999, regarding "public" and its applicability to MS4 programs: "EPA acknowledges that federal and state facilities are different from municipalities. EPA believes, however, that the minimum measures are flexible enough that they can be implemented by these facilities. As an example, DOD

commentators asked about how to interpret the term "public" for military installations when implementing the public education measure. EPA agrees with the suggested interpretation of "public" for DOD facilities as "the resident and employee population within the fence line of the facility." The department recommends that nontraditional MS4 operators, such as state and federal entities and local school districts, utilize this statement as guidance when determining their applicable "public" for compliance with this permit.]

1. Public education and outreach on stormwater impacts. Implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of stormwater discharges on water bodies and the steps that the public can take to reduce pollutants in stormwater runoff. The department recommends that the operator review the Environmental Protection Agency (EPA) publication entitled "Getting in Step: A Guide for Conducting Watershed Outreach Campaigns," publication number EPA 841-B-03-002, for guidance in developing a public education program.

The operator shall identify, schedule, implement, evaluate and modify, as necessary, BMPs to meet the following public education and outreach measurable goals:

a. Increased individual and household knowledge about the steps that they can take to reduce stormwater pollution, placing priority on reducing impacts to impaired waters and other local water pollution concerns;

b. Increased public employee, business, and general public knowledge of hazards associated with illegal discharges and improper disposal of waste, including pertinent legal implications;

c. Increased individual and group involvement in local water quality improvement initiatives including the promotion of local restoration and clean-up projects, programs, groups, meetings and other opportunities for public involvement;

d. Diverse strategies to target audiences specific to the area serviced by the regulated small MS4;

e. Improved outreach program to address viewpoints and concerns of target audiences, with a recommended focus on minorities, disadvantaged audiences and minors; and

f. Targeted strategies towards local groups of commercial, industrial, and institutional entities likely to have significant stormwater impacts.

a. The operator shall continue to implement the public education and outreach program as included in the registration statement until the program is updated to meet the conditions of this state permit. Operators who have not previously held MS4 permit coverage shall implement this program in accordance with the schedule [in Table 1 of this section provided with the completed registration statement].

b. The public education and outreach program should be designed with consideration of the following goals:

(1) Increasing target audience knowledge about the steps that can be taken to reduce stormwater pollution, placing priority on reducing impacts to impaired waters and other local water pollution concerns;

(2) Increasing target audience knowledge of hazards associated with illegal discharges and improper disposal of waste, including pertinent legal implications; and

(3) Implementing a diverse program with strategies that are targeted towards audiences most likely to have significant stormwater impacts.

c. The updated program shall be designed to:

(1) Identify, at a minimum, three high-priority water quality issues, [contributed by that contribute to] the discharge of stormwater (e.g., Chesapeake Bay nutrients, pet wastes and local bacteria TMDLs, high-quality receiving waters, and illicit discharges from commercial sites) and a rationale for the selection of the three high-priority water quality issues;

(2) Identify and estimate the population size of the target audience or audiences who is most likely to have significant impacts for each high-priority water quality issue;

(3) Develop relevant message or messages and associated educational and outreach materials (e.g., various media such as printed materials, billboard and mass transit advertisements, signage at select locations, radio advertisements, television advertisements, websites, and social media) for message distribution to the

selected target audiences while considering the viewpoints and concerns of the target audiences including minorities, disadvantaged audiences, and minors;

(4) Provide for public participation during public education and outreach program development;

(5) Annually conduct sufficient education and outreach activities designed to reach an equivalent 20% of each high-priority issue target audience. It shall not be considered noncompliance for failure to reach 20% of the target audience. However, it shall be a compliance issue if insufficient effort is made to annually reach a minimum of 20% of the target audience; and

(6) Provide for the adjustment of target audiences and messages including educational materials and delivery mechanisms to reach target audiences in order to address any observed weaknesses or shortcomings [as necessary].

d. The operator may coordinate their public education and outreach efforts with other MS4 [~~operations operators~~]; however, each operator shall be individually responsible for meeting all of its state permit requirements.

e. Prior to application for continued state permit coverage required in Section III M, the operator shall evaluate the education and outreach program for:

(1) Appropriateness of the high-priority stormwater issues;

(2) Appropriateness of the selected target audiences for each high-priority stormwater issue;

(3) Effectiveness of the message or messages being delivered; and

(4) Effectiveness of the mechanism or mechanisms of delivery employed in reaching the target audiences.

f. The MS4 Program Plan shall describe how the conditions of this permit shall be updated in accordance with Table 1 in this section.

g. The operator shall include [~~in the annual report~~] the following [information in each annual report submitted to the department during this permit term]:

(1) A list of the education and outreach activities conducted during the reporting period for each high-priority water quality issue, the estimated number of people reached, and an estimated percentage of the target audience or audiences that will be reached; and

(2) A list of the education and outreach activities that will be conducted during the next reporting period for each high-priority water quality issue, the estimated number of people that will be reached, and an estimated percentage of the target audience or audiences that will be reached.

2. Public involvement/participation.

The operator shall comply with applicable state, tribal, and local public notice requirements and identify, schedule, implement, evaluate and modify, as necessary, BMPs to meet the following public involvement/participation measurable goals:

a. Promote the availability of the operator's MS4 Program Plan and any modifications for public review and comment. Public notice shall be given by any method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation. Provide access to or copies of the MS4 Program Plan or any modifications upon request of interested parties in compliance with all applicable freedom of information regulations;

b. Provide access to or copies of the annual report upon request of interested parties in compliance with all applicable freedom of information regulations; and

c. Participate, through promotion, sponsorship, or other involvement, in local activities aimed at increasing public participation to reduce stormwater pollutant loads and improve water quality.

a. Public involvement.

(1) The operator shall comply with any applicable federal, state, and local public notice requirements.

(2) The operator shall:

~~[(a) Maintain an updated MS4 Program Plan on the operator's web page. Updates to the MS4 Program Plan shall be completed a minimum of once a year and should be updated in conjunction with the annual report.~~

(a) Maintain an updated MS4 Program Plan. Any required updates to the MS4 Program Plan shall be completed at a minimum of once a year and shall be updated in conjunction with the annual report. The operator shall post copies of each MS4 program plan on its webpage at a minimum of once a year and within 30 days of submittal of the annual report to the department.]

(b) Post copies of each annual report on the operator's web page within 30 days of submittal to the department and retain copies of annual reports online for the duration of this state permit; and

(c) Prior to ~~reapplying~~ applying] for coverage as required by Section III M, notify the public and provide for receipt of comment of the proposed MS4 Program Plan that will be submitted with the registration statement. As part of the reapplication, the operator shall address how [~~the received comments were considered it considered the comments received~~] in the development of [~~the its~~] MS4 Program Plan. [~~Public notice shall be given~~ The operator shall give public notice] by a method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to solicit public participation.

b. Public participation. The operator shall participate, through promotion, sponsorship, or other involvement, in a minimum of four local activities annually [e.g., stream cleanups; hazardous waste cleanup days; and meetings with watershed associations, environmental advisory committees, and other environmental organizations that operate within proximity to the operator's small MS4]. The activities shall be aimed at increasing public participation to reduce stormwater pollutant loads; improve water quality; and support local restoration and clean-up projects, programs, groups, meetings, or other opportunities for public involvement.

c. The MS4 Program Plan shall include written procedures for implementing this program.

d. Each annual report shall include:

(1) A web link to the MS4 Program Plan and annual report; and

(2) Documentation of compliance with the public participation requirements of this section.

3. Illicit discharge detection and elimination. The MS4 Program shall:

a. Develop, implement and enforce a program to detect and eliminate illicit discharges, as defined at 4VAC50-60-10, into the regulated small MS4. The department recommends that the operator review the publication entitled "Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments," Environmental Protection Agency (EPA) cooperative agreement number X-82907801-0, for guidance in implementing and evaluating its illicit discharge detection and elimination program;

b. Develop, if not already completed, and maintain, an updated storm sewer system map, showing the location of all known outfalls of the regulated small MS4 including those physically interconnected to a regulated MS4, the associated surface waters and HUCs, and the names and locations of all impaired surface waters that receive discharges from those outfalls. The operator shall also estimate the acreage within the regulated small MS4 discharging to each HUC and impaired water;

c. To the extent allowable under state, tribal or local law or other regulatory mechanism, effectively prohibit, through ordinance, or other regulatory mechanism, nonstormwater discharges into the storm sewer system and implement appropriate enforcement procedures and actions;

The following categories of nonstormwater discharges or flows (i.e., illicit discharges) must be addressed only if they are identified by the operator, the State Water Control Board, or by the board as significant contributors of pollutants to the regulated small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water

from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, discharges or flows from fire fighting activities, and flows that have been identified in writing by the Department of Environmental Quality as de minimis discharges that are not significant sources of pollutants to state waters and not requiring a VPDES permit;

d. Develop and implement procedures to detect and address nonstormwater discharges, including illegal dumping, to the regulated small MS4;

e. Prevent or minimize to the maximum extent practicable, the discharge of hazardous substances or oil in the stormwater discharge(s) from the regulated small MS4. In addition, the MS4 Program must be reviewed to identify measures to prevent the recurrence of such releases and to respond to such releases, and the program must be modified where appropriate. This permit does not relieve the operator or the responsible part(ies) of any reporting requirements of 40 CFR Part 110 (2001), 40 CFR Part 117 (2001) and 40 CFR Part 302 (2001) or B§ 62.1-44.34:19 of the Code of Virginia;

f. Track the number of illicit discharges identified, provide narrative on how they were controlled or eliminated, and submit the information in accordance with Section II E 3; and

g. Notify, in writing, any downstream regulated MS4 to which the small regulated MS4 is physically interconnected of the small regulated MS4's connection to that system.

a. The operator shall maintain an accurate storm sewer system map and information table and shall update it in accordance with the schedule set out in Table 1 of this section.

(1) The storm sewer system map must show the following, at a minimum:

(a) The location of all MS4 outfalls. In cases where the outfall is located outside of the MS4 operator's legal responsibility, the operator may elect to map the known point of discharge location closest to the actual outfall. Each mapped outfall must be given a unique identifier, which must be noted on the map; and

(b) The name and location of all waters receiving discharges from the MS4 outfalls and the associated HUC.

(2) [At a minimum, the] associated information table shall include for each outfall the following:

(a) The unique identifier;

(b) The estimated MS4 acreage served;

(c) The name of the receiving surface water and indication as to whether the receiving water is listed as impaired [or in] the Virginia [2012 2010] 303(d)/305(b) [list Water Quality Assessment Integrated Report]; and

(d) The name of any applicable TMDL or TMDLs.

(3) Within 48 months of coverage under this state permit, the operator shall have a complete and updated storm sewer system map and information table that includes all MS4 outfalls located within the boundaries identified as "urbanized" areas in the 2010 Decennial Census and shall submit the updated information table as an appendix to the annual report.

(4) The operator shall maintain a copy of the current storm sewer system map and outfall information table for review upon request by the public or by the department.

(5) The operator shall continue to identify other points of discharge. The operator shall notify in writing the downstream MS4 of any known physical interconnection.

b. The operator shall effectively prohibit, through ordinance or other legal mechanism, nonstormwater discharges into the storm sewer system to the extent allowable under federal, state, or local law, [or,] regulation [, or ordinance]. Categories of nonstormwater discharges or flows (i.e., illicit discharges) identified in 4VAC50-60-400 D 2 c (3) must be addressed only if they are identified by the operator [, the State Water Control Board, or by the board] as significant contributors of pollutants to the small MS4. Flows that have been identified in writing by the Department of Environmental Quality as de minimis discharges are not significant sources of pollutants to surface water and do not require a VPDES permit.

c. The operator shall develop [, implement,] and [~~implement~~ update, when appropriate,] written procedures to detect, identify, and address [unauthorized] nonstormwater discharges, including illegal dumping, to the small MS4. These procedures shall include:

(1) Written dry weather field screening methodologies to detect and eliminate illicit discharges to the MS4 that include field observations and field screening monitoring and that provide:

(a) A prioritized schedule of field screening activities determined by the operator based on such [~~things~~ criteria] as age of the infrastructure, land use, historical illegal discharges, dumping or cross connections.

(b) The minimum number of field screening activities the operator shall complete annually to be determined as follows: (i) if the total number of outfalls in the small MS4 is less than 50, all outfalls shall be screened annually or (ii) if the small MS4 has 50 or more total outfalls, a minimum of 50 outfalls shall be screened annually.

(c) Methodologies to collect the general information such as time since the last rain, the quantity of the last rain, site descriptions (e.g., conveyance type and dominant watershed land uses), estimated discharge rate (e.g., width of water surface, approximate depth of water, approximate flow velocity, and flow rate), and visual observations (e.g., order, color, clarity, floatables, deposits or stains, vegetation condition, structural condition, and biology []):

(d) A time frame upon which to conduct an investigation or investigations to identify and locate the source of any observed continuous or intermittent nonstormwater discharge prioritized as follows: (i) illicit discharges suspected of being sanitary sewage or significantly contaminated must be investigated first and (ii) investigations of illicit discharges suspected of being less hazardous to human health and safety such as noncontact cooling water or wash water may be delayed until after all suspected sanitary sewage or significantly contaminated discharges have been investigated, eliminated, or identified. Discharges authorized under a separate [~~VPDES~~ VPDES] or state permit [~~are natural flow and~~] require no further action [under this permit].

(e) Methodologies to determine the source of all illicit discharges shall be conducted. If an illicit discharge is found, but within six months of the beginning of the investigation neither the source nor the same nonstormwater discharge has been identified, then the operator shall document such in accordance with Section II B 3 f. If the observed discharge is intermittent, the operator must document that a minimum of three separate investigations were made in an attempt to observe the discharge when it was flowing. If these attempts are unsuccessful, the operator shall document such in accordance with Section II B 3 f.

(f) Mechanisms to eliminate identified sources of illicit discharges including a description of the policies and procedures for when and how to use legal authorities:

(g) Methods for conducting a follow-up investigation in order to verify that the discharge has been eliminated.

(h) A mechanism to track all investigations to document [~~at a minimum~~]: (i) the date or dates that the illicit discharge was observed and reported; (ii) the results of the investigation; (iii) any follow-up [~~of to~~] the investigation; (iv) resolution of the investigation; and (v) the date that the investigation was closed.

~~[d. The operator shall eliminate or minimize to the maximum extent practicable, the discharge of hazardous substance or oil in the stormwater discharge or discharges from the small MS4. In addition, the MS4 Program Plan must be reviewed to identify measures to prevent the recurrence of such releases, and respond to such releases, and must be modified where appropriate.~~

~~e. d.]~~ The operator shall promote, publicize, and facilitate public reporting of illicit discharges into or from MS4s. The operator shall conduct inspections in response to complaints and follow-up inspections as needed to ensure that corrective measures have been implemented by the responsible party.

~~[f. e.]~~ The MS4 Program Plan shall include all procedures developed by the operator to detect, identify, and address nonstormwater discharges to the MS4 in accordance with the schedule in Table 1 in this section. In the interim, the operator shall continue to implement the program as included as part of the registration statement until the program is updated to meet the conditions of this permit. Operators, who have not previously held MS4 permit coverage, shall implement this program in accordance with the schedule provided [in Table 1 in this section with the completed registration statement].

[g- f.] Annual reporting requirements. Each annual report shall include:

(1) A list of any written notifications of physical interconnection given by the operator to other MS4s;

(2) The total number of outfalls screened during the reporting period, the screening results, and detail of any follow-up [~~necessary based on~~ actions necessitated by the] screening results; and

(3) A summary of each investigation conducted by the operator of any suspected illicit discharge. The summary must include: (i) the date that the [~~suspect~~ suspected] discharge was observed [~~or~~] reported [.] or both; (ii) how the investigation was resolved, including any follow-up, and (iii) resolution of the investigation and the date the investigation was closed.

4. Construction site stormwater runoff control.

~~a. The operator shall develop, implement, and enforce procedures to reduce pollutants in any stormwater runoff to the regulated small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act. Additionally, reduction of stormwater discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more.~~

~~The procedures must include the development and implementation of, at a minimum:~~

~~(1) An ordinance or other mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance with the Erosion and Sediment Control Law and attendant regulations, to the extent allowable under state, tribal, or local law. Such ordinances and other mechanisms shall be updated as necessary;~~

~~(2) Requirements for construction site owners and operators to implement appropriate erosion and sediment control best management practices as part of an erosion and sediment control plan that is consistent with the Erosion and Sediment Control Law and attendant regulations and other applicable requirements of state, tribal, or local law. Where determined appropriate by the operator, the operator shall encourage the use of structural and nonstructural design techniques to create a design that has the goal of maintaining or replicating predevelopment runoff characteristics and site hydrology;~~

~~(3) Requirements for construction site owners and operators to secure authorization to discharge stormwater from construction activities under a permit for construction activities that result in a land disturbance of greater than or equal to one acre or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act. Additionally, stormwater discharges from construction activity disturbing less than one acre must secure authorization to discharge under a state permit if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more;~~

~~(4) Procedures for receipt and consideration of information submitted by the public; and~~

~~(5) Procedures for site inspection and enforcement of control measures.~~

~~b. The operator shall ensure that plan reviewers, inspectors, program administrators and construction site owners and operators obtain the appropriate certifications as required under the Erosion and Sediment Control Law;~~

~~c. The operator shall track regulated land-disturbing activities and submit the following information in accordance with Section II E 3:~~

~~(1) Total number of regulated land-disturbing activities; and~~

~~(2) Total disturbed acreage.~~

a. Applicable oversight requirements. The operator shall utilize its legal authority, such as ordinances, permits, orders, specific contract language, and interjurisdictional agreements, to address discharges entering the MS4 from the following land-disturbing activities:

(1) Land-disturbing activities as defined in B§ 10.1-560 of the Code of Virginia that result in the disturbance of 10,000 square feet or greater;

(2) Land-disturbing activities in Tidewater jurisdictions, as defined in B§ 10.1-2101 of the Code of Virginia, that disturb 2,500 square feet or greater and are located in areas designated as Resource Protection Areas (RPA), Resource Management Areas (RMA) or Intensely Developed Acres (IDA), pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act;

(3) Land-disturbing activities disturbing less than the minimum land disturbance identified in subdivision (1) or (2) above for which a local ordinance requires that an erosion and sediment control plan be developed; and

(4) Land-disturbing activities on individual residential lots or sections of residential developments being developed by different property owners and where the total land disturbance of the residential development is 10,000 square feet or greater. The operator may utilize an agreement in lieu of a plan as provided in B§ 10.1-563 of the Code of Virginia for [~~these~~ this category of] land disturbances.

b. Required plan approval prior to commencement of the land disturbing activity. The operator shall require that land disturbance not begin until an erosion and sediment control plan or an agreement in lieu of a plan as provided in B§ 10.1-563 is approved by a VESCP authority in accordance with the Erosion and Sediment Control Act (B§ 10.1-560 et seq.). The plan shall be:

(1) Compliant with the minimum standards identified in 4VAC-50-30-40 of the Erosion and Sediment Control Regulations; or

(2) Compliant with department-approved annual standards and specifications. Where applicable, the plan shall be consistent with any additional or more stringent, or both, erosion and sediment control requirements established by state regulation or local ordinance.

c. Compliance and enforcement.

(1) The operator shall inspect land-disturbing activities for compliance with an approved erosion and sediment control plan or agreement in lieu of a plan in accordance with the minimum standards identified in 4VAC50-30-40 or with [~~board-approved~~ department-approved annual] standards and specifications.

(2) The operator shall implement an inspection schedule for land-disturbing activities identified in Section II B 4 a as follows:

(a) Upon initial installation of erosion and sediment controls;

(b) At least once during every two-week period;

(c) Within 48 hours of any runoff-producing storm event; and

(d) Upon completion of the project and prior to the release of any applicable performance bonds.

Where an operator establishes an alternative inspection program as provided for in 4VAC50-30-60 B 2, the written schedule shall be implemented in lieu of Section II B 4 c (2) and the written plan shall be included in the MS4 Program Plan.

(3) Operator inspections shall be conducted by personnel who hold [~~an appropriate a~~] certificate of competence in accordance with 4VAC-50-50-40. Documentation of certification shall be made available upon request by the VESCP authority or other regulatory agency.

(4) The operator shall promote to the public a mechanism for receipt of complaints regarding regulated land-disturbing activities and shall follow up on any complaints regarding potential water quality and compliance issues.

(5) The operator shall utilize [~~as appropriate,~~] its legal authority to require compliance with the approved plan where an inspection finds that the approved plan is not being properly implemented.

(6) The operator shall utilize, as appropriate, its legal authority to require changes to an approved plan when a inspection finds that the approved plan is inadequate to effectively control soil erosion, sediment deposition,

and runoff to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources.

(7) The operator shall [~~required~~ require] implementation of appropriate controls to prevent nonstormwater discharges to the MS4, such as wastewater, concrete washout, fuels and oils, and other illicit discharges identified during land-disturbing activity inspections of the MS4. The discharge of nonstormwater discharges other than those identified in 4VAC50-60-1220 through the MS4 is not authorized [~~in by~~] this state permit.

(8) The operator may develop and implement a progressive compliance and enforcement strategy provided that such strategy is included in the MS4 Program Plan [~~and is consistent with 4VAC50-30~~].

d. Regulatory coordination. The operator shall implement enforceable procedures to require that large construction activities as defined in 4VAC50-60-10 and small construction activities as defined in 4VAC50-60-10, including municipal construction activities, secure necessary state permit authorizations from the department to discharge stormwater.

e. MS4 Program requirements. The operator's MS4 Program Plan shall include:

(1) A description of the legal authorities utilized to ensure compliance with the minimum control measure in Section II related to construction site stormwater runoff control such as ordinances, permits, orders, specific contract language, and interjurisdictional agreements;

(2) Written plan review procedures and all associated documents utilized in plan review;

(3) For the MS4 operators who obtain department-approved standards and specifications, a copy of the current standards and specifications;

(4) Written inspection procedures and all associated documents utilized [~~in plan review~~ during inspection] including the inspection schedule;

(5) Written procedures for compliance and enforcement, including a progressive compliance and enforcement strategy, where appropriate; and

(6) The roles and responsibilities of each of the operator's departments, divisions, or subdivisions in implementing the minimum control measure in Section II related to construction site stormwater runoff control. If the operator utilizes another entity to implement portions of the MS4 Program Plan, a copy of the written agreement must be retained in the MS4 Program Plan. The description of [~~the each party's~~] roles and responsibilities, including any written agreements with third parties, shall be updated as necessary.

Reference may be made to any listed requirements in this subdivision provided the location of where [~~to find~~] the reference material can be found is included and the reference material is made available to the public upon request.

f. Reporting requirements. The operator shall track regulated land-disturbing activities and submit the following information in all annual reports:

(1) Total number of regulated land-disturbing activities;

(2) Total [~~disturbed acreage~~ number of acres disturbed];

(3) Total number of inspections [~~performed~~ conducted]; and

(4) A summary of the enforcement actions taken [, including the total number and type of enforcement actions taken during the reporting period].

5. Post-construction stormwater management in new development and ~~development on prior developed lands~~ redevelopment.

a. The operator shall develop, implement, and enforce procedures to address stormwater runoff to the regulated small MS4 from new development and redevelopment projects that disturb greater than or equal to one acre or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act, including projects less than one acre that are part of a larger common

plan of development or sale, that discharge into the regulated small MS4. The procedures must ensure that controls are in place that would prevent or minimize water quality and quantity impacts in accordance with this section.

b. The operator shall:

(1) Develop and implement strategies which include a combination of structural and/or nonstructural best management practices (BMPs) appropriate for the operator's community. Where determined appropriate by the operator, the operator shall encourage the use of structural and nonstructural design techniques to create a design that has the goal of maintaining or replicating predevelopment runoff characteristics and site hydrology;

(2) Use an ordinance, regulation, or other mechanism to address post-construction runoff from new development and redevelopment projects to ensure compliance with the Virginia Stormwater Management Act (B§ 10.1-603.1 et seq. of the Code of Virginia) and attendant regulations, and to the extent allowable under state, tribal or local law. Such ordinances and other mechanisms shall be updated as necessary;

(3) Require construction site owners and operators to secure authorization to discharge stormwater from construction activities under a permit for new development and redevelopment projects that result in a land disturbance of greater than or equal to one acre or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act. Additionally, stormwater discharges from construction activity disturbing less than one acre must secure authorization to discharge under a state permit if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more;

(4) Require adequate long-term operation and maintenance by the owner of structural stormwater management facilities through requiring the owner to develop a recorded inspection schedule and maintenance agreement to the extent allowable under state, tribal or local law or other legal mechanism. The operator shall additionally develop, through the maintenance agreement or other method, a mechanism for enforcement of maintenance responsibilities by the operator if they are neglected by the owner;

(5) Conduct site inspection and enforcement measures consistent with the Virginia Stormwater Management Act and attendant regulations; and

(6) Track all known permanent stormwater management facilities that discharge to the regulated small MS4 and submit the following information in accordance with Section II E 3:

(a) Type of structural stormwater management facility installed as defined in the Virginia Stormwater Management Handbook;

(b) Geographic location (HUC);

(c) Where applicable, the impaired surface water that the stormwater management facility is discharging into; and

(d) Number of acres treated.

a. Applicable oversight requirements. The operator shall address post-construction stormwater runoff that enters the MS4 from the following land-disturbing activities:

(1) New development and development on prior developed lands that are defined as large construction activities or small construction activities in 4VAC50-60-10;

(2) New development and development on prior developed lands that disturb greater than or equal to 2,500 square feet, but less than one acre, located in a Chesapeake Bay Preservation Area designated by a local government located in Tidewater, Virginia [, as defined in B§ 10.1-2101 of the Code of Virginia]; and

(3) New development and development on prior developed lands where an applicable state regulation or local ordinance has designated a more stringent regulatory size threshold than that identified in subdivision (1) or (2) above.

b. Required design criteria for stormwater runoff controls. The operator shall utilize [appropriate] legal authority, such as ordinances, permits, orders, specific contract language, and interjurisdictional agreements, to require that activities identified in Section II B 5 a address stormwater runoff in such a manner that stormwater runoff controls are designed and installed:

(1) In accordance with the appropriate water quality and water quantity design criteria as required in Part II (4VAC50-60-40 et seq.) of 4VAC50-60;

(2) In accordance with any additional applicable state or local design criteria required at project initiation; and

(3) Where applicable, in accordance with any department-approved annual standards and specifications.

Upon board approval of a Virginia Stormwater Management Program authority (VSMP [~~authority~~ Authority]) as defined in B§ 10.1-603.2 of the Code of Virginia and reissuance of the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities, the operator shall require that stormwater management plans are approved by the appropriate VSMP [~~authority~~ Authority] prior to land disturbance. [~~The expected implementation date of this requirement is July 1, 2014; as per~~ In accordance with] B§ 10.1-603.3 M of the Code of Virginia, [~~VSMPs~~ VSMPs] shall become effective July 1, 2014, unless otherwise specified by [~~state law or by~~] the board.

c. Inspection, operation, and maintenance verification of stormwater management facilities.

(1) For stormwater management facilities not owned by the MS4 operator, the following conditions apply:

(a) The operator shall require adequate long-term operation and maintenance by the owner of the stormwater management facility by requiring the owner to develop a recorded inspection schedule and maintenance agreement to the extent allowable under state or local law or other legal mechanism;

(b) The operator [or his designee] shall implement a schedule designed to inspect all privately owned stormwater management facilities that discharge into the MS4 at least once every five years to document that maintenance is being conducted in such a manner to ensure long-term operation in accordance with the approved designs.

(c) The operator shall utilize its legal authority for enforcement of maintenance responsibilities [~~by the operator~~] if maintenance is neglected by the owner. The operator may develop and implement a progressive compliance and enforcement strategy provided that the strategy is included in the MS4 Program Plan.

(d) Beginning with the issuance of this state permit, the operator may utilize strategies other than maintenance agreements such as periodic inspections, homeowner outreach and education, and other methods targeted at promoting the long-term maintenance of stormwater control measures that are designed to treat stormwater runoff solely from the individual residential lot. Within 12 [~~month~~ months] of coverage under this permit, the operator shall develop and implement these alternative strategies [and include them in the MS4 Program Plan].

(2) For stormwater management facilities owned by the MS4 operator, the following conditions apply:

(a) The operator shall provide for adequate long-term operation and maintenance of its stormwater management facilities in accordance with written inspection and maintenance procedures included in the MS4 Program Plan.

(b) The operator shall inspect these stormwater management facilities annually. The operator may choose to implement an alternative schedule to inspect these stormwater management facilities based on facility type and expected maintenance needs provided that the alternative schedule is included in the MS4 Program Plan.

(c) The operator shall conduct maintenance on its stormwater management facilities as necessary.

d. MS4 Program Plan requirements. The operator's MS4 Program Plan shall be updated in accordance with Table 1 in this section to include:

(1) A list of the applicable legal authorities such as ordinance, state and other permits, orders, specific contract language, and interjurisdictional agreements to ensure compliance with the minimum control

measure in Section II related to post-construction stormwater management in new development and development on prior developed lands;

(2) Written policies and procedures utilized to ensure that stormwater management facilities are designed and installed in accordance with Section II B 5 b;

(3) Written inspection policies and procedures utilized in conducting inspections;

(4) Written procedures for inspection, compliance and enforcement to ensure maintenance is conducted on private stormwater facilities to ensure long-term operation in accordance with approved design;

(5) Written procedures for inspection and maintenance of operator-owned stormwater management facilities;

(6) The roles and responsibilities of each of the operator's departments, divisions, or subdivisions in implementing the minimum control measure in Section II related to post-construction stormwater management in new development and development on prior developed lands. If the operator utilizes another entity to implement portions of the MS4 Program Plan, a copy of the written agreement must be retained in the MS4 Program Plan. Roles and responsibilities shall be updated as necessary.

e. Stormwater management facility tracking and reporting requirements. The operator shall maintain an updated electronic database of all known operator-owned and privately-owned stormwater management facilities that discharge into the MS4. The database shall include the following:

(1) The stormwater management facility type;

(2) A general description of the facility's location, including the address or latitude and longitude;

(3) The acres treated by the facility, including total acres, as well as the breakdown of pervious and impervious acres;

(4) The date the facility was brought online [(MM/YYYY) (MM/YYYY)]. If the date is not known, the operator shall use June [30,] 2005 [.] as the date brought online for all previously existing stormwater management facilities;

(5) The sixth order hydrologic unit code (HUC) in which the stormwater management facility is located;

(6) The name of any impaired water segments within each HUC listed [on in] the [2012 2010] B§ 305(b)/303(d) Water Quality Assessment [~~Integrate~~ Integrated] Report to which the stormwater management facility discharges;

(7) Whether the stormwater management facility is operator-owned or privately-owned;

(8) Whether a maintenance agreement exists if the stormwater management facility is privately owned; and

(9) The date of the [~~last inspection~~ operator's most recent inspection of the stormwater management facility].

In addition, the operator shall annually track and report the total number of inspections completed and, when applicable, the number of enforcement actions taken to ensure long-term maintenance.

[~~An~~ The operator shall submit an] electronic database or spreadsheet of all stormwater management facilities brought online during each reporting year [~~shall be submitted~~] with the appropriate annual report. Upon such time as the department provides the operators access to a statewide web-based reporting [~~database~~ electronic database or spreadsheet], the operator shall utilize such database to complete the pertinent reporting requirements of this state permit.

6. Pollution prevention/good housekeeping for municipal operations. ~~Develop and implement an operation and maintenance program consistent with the MS4 Program Plan that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Using training materials including those available from EPA, state, tribe, or other organizations, the program shall include employee training to prevent and reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and MS4 maintenance. The operator is encouraged to review the Environmental Protection Agency's (EPA's) National~~

Menu of Stormwater Best Management Practices for ideas and strategies to incorporate into its program. The menu can be accessed at <http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm>.

The operator shall identify, implement, evaluate and modify, as necessary, BMPs to meet the following pollution prevention/good housekeeping for municipal operations measurable goals:

a. Operation and maintenance programs including activities, schedules, and inspection procedures shall include provisions and controls to reduce pollutant discharges into the regulated small MS4 and receiving surface waters;

b. Illicit discharges shall be eliminated from storage yards, fleet or maintenance shops, outdoor storage areas, rest areas, waste transfer stations, and other municipal facilities;

c. Waste materials shall be disposed of properly;

d. Materials that are soluble or erodible shall be protected from exposure to precipitation;

e. Materials, including but not limited to fertilizers and pesticides, that have the potential to pollute receiving surface waters shall be applied according to manufacturer's recommendations; and

f. For state agencies with lands where nutrients are applied, nutrient management plans shall be developed and implemented in accordance with the requirements of BS 10.1-104.4 of the Code of Virginia.

a. Operations and maintenance activities. The MS4 Program Plan submitted with the registration statement shall be implemented by the operator until updated in accordance with this state permit. In accordance with Table 1 in this section, the operator shall develop and implement written procedures designed to minimize or prevent pollutant discharge from: (i) daily operations such as road, street, and parking lot maintenance; (ii) equipment maintenance; and (iii) the application, storage, transport, and disposal of pesticides, herbicides, and fertilizers. The written procedures shall be utilized [~~as appropriate,~~] as part of the employee training. At a minimum, the written procedures shall be designed to:

(1) Prevent illicit discharges;

(2) Ensure the proper disposal of [~~water waste~~] materials, including landscape wastes;

(3) Prevent the discharge of municipal vehicle wash water into the MS4 without authorization under a separate VPDES permit;

(4) Prevent the discharge of wastewater into the MS4 without authorization under a separate [~~VPDES~~ VPDES] permit;

(5) Require implementation of best management practices when discharging water pumped from utility construction and maintenance activities;

(6) Minimize the pollutants in stormwater runoff from bulk storage areas (e.g., salt storage, topsoil stockpiles) through the use of best management practices;

(7) Prevent pollutant discharge into the MS4 from leaking municipal automobiles and equipment; and

(8) Ensure that the application of materials, including fertilizers and pesticides, is conducted in accordance with the manufacturer's recommendations.

b. Municipal facility pollution prevention and good housekeeping.

(1) Within 12 months of state permit coverage, the operator shall identify all municipal high-priority facilities. These high-priority facilities shall include (i) composting facilities, (ii) equipment storage and maintenance facilities, (iii) materials storage yards, (iv) pesticide storage facilities, (v) public works yards, (vi) recycling facilities, (vii) salt storage facilities, (viii) solid waste handling and transfer facilities, and [~~(viii)~~ (ix)] vehicle storage and maintenance yards.

(2) Within 12 months of state permit coverage, the operator shall identify which of the municipal high-priority facilities have a high potential of [~~chemicals or other materials to be discharged in stormwater~~ discharging pollutants]. [Municipal high-priority facilities that have a high potential for discharging pollutants are those

facilities identified in subsection (1) above that are not covered under a separate VPDES permit and which any of the following materials or activities occur and are expected to have exposure to stormwater resulting from rain, snow, snowmelt or runoff]:

(a) [~~Using, storing or cleaning machinery or equipment (except adequately maintained vehicles), and areas~~ Areas] where residuals from using, storing or cleaning machinery or equipment remain and are exposed to stormwater;

(b) Materials or residuals on the ground or in stormwater inlets from [~~spill~~ spills] or leaks;

(c) Material handling equipment (except adequately maintained vehicles);

(d) Materials or products [that would be expected to be mobilized in stormwater runoff] during loading/unloading or transporting activities (e.g., [rock,] salt, fill dirt);

(e) Materials or products stored outdoors (except final products intended for outside use where exposure to stormwater does not result in the discharge of pollutants);

(f) Materials [or products that would be expected to be mobilized in stormwater runoff] contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;

(g) Waste material except waste in covered, non-leaking containers (e.g., dumpsters);

(h) Application or disposal of process wastewater (unless otherwise permitted); or,

(i) Particulate matter or visible deposits of residuals from roof stacks, vents or both not otherwise regulated (i.e., under an air quality control permit) and evident in the stormwater [~~outflow~~ runoff].

(3) The operator shall develop and implement specific stormwater pollution prevention plans for all high-priority facilities identified [~~as having a high potential for the discharge of chemicals and other materials in stormwater~~ in subdivision 2 of this subsection]. [The operator shall complete] SWPPP development and implementation shall be completed within [~~four years~~ 48 months] of coverage under this state permit. Facilities covered under a separate [~~VPDES~~ VPDES] permit shall adhere to the conditions established in that permit and are excluded from this requirement.

(4) Each SWPPP shall include:

(a) A site description that includes a site map identifying all outfalls, direction of flows, existing source controls, and receiving water bodies;

(b) A discussion and checklist of potential pollutants and pollutant sources;

(c) A discussion of all potential nonstormwater discharges;

(d) Written procedures designed to reduce and prevent pollutant discharge;

(e) A description of the applicable training as required in Section II B 6 [~~e~~ d];

(f) Procedures to conduct an annual comprehensive site compliance evaluation;

(g) An inspection and maintenance schedule for site specific source controls. The date of each inspection and associated findings and follow-up shall be logged in each SWPPP;

(h) The contents of each SWPPP shall be evaluated and modified as necessary [~~as the result of any to accurately reflect any discharge,] release, or spill from the high priority facility reported in accordance with Section III G. [The date of the release, material spilled and the amount of the release must be listed in each SWPPP~~ For each such discharge, release, or spill, the SWPPP must include the following information: date of incident; material discharged, released, or spilled; and quantity discharged, released or spilled]; and

(i) A copy of each SWPPP shall be kept at each facility and shall be kept updated and utilized as part of staff training required in Section II B 6 d.

c. [~~Nutrient~~ Turf and Landscape] management.

(1) The operator shall implement [turf and landscape] nutrient management plans that have been developed by a certified [turf and landscape] nutrient management planner in accordance with B§ 10.1-104.2 of the Code of Virginia on all lands owned or operated by the MS4 operator where nutrients are applied to a contiguous area greater than one acre. Implementation shall be in accordance with the following schedule:

(a) Within 12 months of state permit coverage, the operator shall identify all applicable lands where nutrients are applied to a contiguous area of more than one acre. A latitude and longitude shall be provided for each such piece of land and reported in the annual report.

(b) Within 60 months of state permit coverage, the operator shall implement [turf and landscape] nutrient management plans on all lands where nutrients are applied to a contiguous area of more than one acre. The following measurable [goals outcomes] are established for the implementation of [turf and landscape] nutrient management plans: (i) within 24 months of permit coverage, not less than 15% of all identified acres will be covered by [turf and landscape] nutrient management plans; (ii) within 36 months of permit coverage, not less than 40% of all identified acres will be covered by [turf and landscape] nutrient management plans; and (iii) within 48 months of permit coverage, not less than 75% of all identified acres will be covered by [turf and landscape] nutrient management plans. The operator shall not fail to meet the measurable goals for two consecutive years.

(c) MS4 operators with lands regulated under B§ 10.1-104.4 of the Code of Virginia shall continue to implement [turf and landscape] nutrient management plans in accordance with this statutory requirement.

(2) Operators shall annually track the following:

(a) The total acreage of lands where [turf and landscape] nutrient management plans are required; and

(b) The acreage of lands upon which [turf and landscape] nutrient management plans have been implemented.

(3) The operator shall not apply any deicing agent containing urea or other forms of nitrogen or phosphorus to parking lots, roadways, and sidewalks, or other paved surfaces.

d. Training. The operator shall conduct training for employees. The training requirements may be fulfilled, in total or in part, through regional training programs involving two or more MS4 localities provided; however, that each operator shall remain individually liable for its failure to comply with the training requirements in this permit. Training is not required if the topic is not applicable to the operator's operations and therefore does not have applicable [relevant] personnel provided the lack of applicability is documented in the MS4 Program Plan. The operator shall determine [and document] the [relevant applicable] employees [or positions] to receive [each type of] training. The operator shall develop an annual written training plan including a schedule of training events that ensures implementation of the training requirements as follows:

(1) The operator shall provide biennial training to [relevant applicable] field personnel in the recognition and reporting of illicit discharges.

(2) The operator shall provide biennial training to [relevant applicable] employees in good housekeeping and pollution prevention practices that are to be employed during road, street, and parking lot maintenance.

(3) The operator shall provide biennial training to [relevant applicable] employees in good housekeeping and pollution prevention practices that are to be employed in and around maintenance and public works facilities.

(4) The operator shall ensure that employees, and require that contractors, [applying who apply] pesticides and herbicides are properly trained or certified in accordance with the [Virginia Virginia] Pesticide Control Act (B§ [3-1-249.27 3.2-3900] et seq. of the Code of Virginia).

(5) The operator shall ensure that employees and contractors [employed serving] as plan reviewers, inspectors, program administrators, and construction site operators obtain the appropriate certifications as required under the Virginia Erosion and Sediment Control Law and its attendant regulations.

(6) The operator shall ensure that [the relevant applicable] employees obtain the appropriate certifications as required under the Virginia Erosion and Sediment Control Law and its attendant regulations.

(7) The operators shall provide biennial training to [appropriate applicable] employees in good housekeeping and pollution prevention practices that are to be employed in and around recreational facilities.

(8) The appropriate emergency response employees shall have training in spill responses. A summary of the training or certification program provided to emergency response employees shall be included in the first annual report.

(9) The operator shall keep documentation on each training event including the training date, the number of employees attending the training, and the objective of the training event for a period of three years after each training event.

e. The operator shall require that municipal contractors use appropriate control measures and procedures for stormwater discharges to the MS4 system. Oversight procedures shall be described in the MS4 Program Plan.

f. [~~In accordance with the schedule of development in Table 1 of this section, the~~ At a minimum, the] MS4 Program Plan shall contain:

(1) The written protocols being used to satisfy the daily operations and maintenance requirements;

(2) A list of all municipal high-priority facilities that [~~denotes~~ identifies] those facilities that have a high potential [~~of~~ for] chemicals or other materials to be discharged in stormwater and a schedule that identifies the year in which an individual SWPPP will be developed for those facilities required to have [a] SWPPP. Upon completion of a SWPPP, the SWPPP shall be part of the MS4 Program Plan. The MS4 Program Plan shall include the location in which the individual SWPPP is located;

(3) A list of lands where nutrients are applied to a contiguous area of more than one acre. Upon completion of a [turf and landscape] nutrient management plan, the [turf and landscape] nutrient management plan shall be part of the MS4 Program Plan. The MS4 Program Plan shall include the location in which the individual [turf and landscape] nutrient management plan is located; and

(4) The annual written training plan for the next reporting cycle.

g. [~~Reporting~~ Annual reporting] requirements.

(1) A summary report on the development and implementation of the daily operational procedures;

(2) A summary report on the development and implementation of the required SWPPPs;

(3) A summary report on the development and implementation of the [turf and landscape] nutrient management plans that includes:

(a) The total acreage of lands where [turf and landscape] nutrient management plans are required; and

(b) The acreage of lands upon which [turf and landscape] nutrient management plans have been implemented; and

(4) A summary report on the required training, including a list of training events, the training date, the number of employees attending training and the objective of the training.

C. If an existing program requires the implementation of one or more of the minimum control measures of Section II B, the operator, with the approval of the board, may follow that program's requirements rather than the requirements of Section II B. A program that may be considered includes, but is not limited to, a local, state or tribal program that imposes, at a minimum, the relevant requirements of Section II B.

The operator's MS4 Program Plan shall identify and fully describe any program that will be used to satisfy one or more of the minimum control measures of Section II B.

If the program the operator is using requires the approval of a third party, the program must be fully approved by the third party, or the operator must be working towards getting full approval. Documentation of the program's approval status, or the progress towards achieving full approval, must be included in the annual report required by Section II E 3. The operator remains responsible for compliance with the permit requirements if the other entity fails to implement the control measures (or component thereof.)

D. The operator may rely on another entity to satisfy the state permit ~~obligations~~ requirements to implement a minimum control measure if: (i) the other entity, in fact, implements the control measure; (ii) the particular control measure, or component thereof, is at least as stringent as the corresponding state permit requirement; and (iii) the other entity agrees to implement the control measure on behalf of the operator. The agreement between the parties must be documented in writing and retained by the operator with the MS4 Program Plan for the duration of this state permit.

In the annual reports that must be submitted under Section II E 3, the operator must specify that another entity is being relied on to satisfy some of the state permit ~~obligations~~ requirements.

If the operator is relying on another governmental entity regulated under 4VAC50-60-380 to satisfy all of the state permit obligations, including the obligation to file periodic reports required by Section II E 3, the operator must note that fact in the registration statement, but is not required to file the periodic reports.

The operator remains responsible for compliance with the state permit ~~obligations~~ requirements if the other entity fails to implement the control measure (or component thereof).

E. Evaluation and assessment.

1. MS4 Program Evaluation. The operator must annually evaluate:

~~a. The operator must annually evaluate:~~

~~(1) a.~~ Program compliance;

~~(2) b.~~ The appropriateness of the identified BMPs (as part of this evaluation, the operator shall evaluate the effectiveness of BMPs in addressing discharges into waters that are identified as impaired in the ~~2006~~ [2012 2010] BS 305(b)/303(d) Water Quality Assessment Integrated Report); and

~~(3) c.~~ Progress towards achieving the identified measurable goals.

~~b. The operator must evaluate its MS4 Program once during the permit cycle using the "Municipal Stormwater Program Evaluation Guidance," Environmental Protection Agency EPA-833-R-07-003. Such information shall be utilized when reapplying for permit coverage. Results of this evaluation shall be kept on file and made available during audits and inspections.~~

2. Recordkeeping. The operator must keep records required by the state permit for at least three years. These records must be submitted to the ~~NPDES-permitting authority~~ department only upon specific request. The operator must make the records, including a description of the stormwater management program, available to the public at reasonable times during regular business hours.

3. Annual reports. The operator must submit an annual report for the reporting period of July 1 through June 30 to the department by the following October 1 [of that year]. The reports shall include:

a. Background Information.

(1) The name and state permit number of the program submitting the annual report;

(2) The annual report permit year;

(3) Modifications to any operator's department's roles and responsibilities;

(4) Number of new MS4 outfalls and associated acreage by HUC added during the permit year; and

(5) Signed certification.

b. The status of compliance with state permit conditions, an assessment of the appropriateness of the identified best management practices and progress towards achieving the identified measurable goals for each of the minimum control measures;

c. Results of information collected and analyzed, including monitoring data, if any, during the reporting period;

d. A summary of the stormwater activities the operator plans to undertake during the next reporting cycle;

e. A change in any identified best management practices or measurable goals for any of the minimum control measures including steps to be taken to address any deficiencies;

f. Notice that the operator is relying on another government entity to satisfy some of the state permit obligations (if applicable);

g. The approval status of any programs pursuant to Section II C (if appropriate), or the progress towards achieving full approval of these programs; and

h. Information required ~~pursuant to Section I B 9; for any applicable TMDL special condition [contained in Section I]~~.

~~i. The number of illicit discharges identified and the narrative on how they were controlled or eliminated pursuant to Section II B 3 f;~~

~~j. Regulated land-disturbing activities data tracked under Section II 4 c;~~

~~k. All known permanent stormwater management facility data tracked under Section II B 5 b (6) submitted in a database format to be prescribed by the department. Upon filing of this list, subsequent reports shall only include those new stormwater management facilities that have been brought online;~~

~~l. A list of any new or terminated signed agreements between the operator and any applicable third parties where the operator has entered into an agreement in order to implement minimum control measures or portions of minimum control measures; and~~

~~m. Copies of any written comments received during a public comment period regarding the MS4 Program Plan or any modifications.~~

~~F. Program Plan modifications. The board may require modifications to the MS4 Program Plan as needed to address adverse impacts on receiving surface water quality caused, or contributed to, by discharges from the regulated small MS4. Modifications required by the board shall be made in writing and set forth the time schedule to develop and implement the modification. The operator may propose alternative program modifications and time schedules to meet the objective of the required modification. The board retains the authority to require any modifications it determines are necessary.~~

1. [~~Modifications~~ Program modifications] requested by the operator. Modifications to the MS4 Program are expected throughout the life of this state permit as part of the iterative process to reduce the pollutant loadings and to protect water quality. As such, modifications made in accordance with this state permit as a result of the iterative process do not require modification of this permit unless the department determines that the changes [~~met meet~~] the criteria referenced in 4VAC50-60-630 or 4VAC50-60-650. Updates and modifications to the MS4 Program may be made during the life of this state permit in accordance with the following procedures:

a. Adding (but not eliminating or replacing) components, controls, or requirements to the MS4 Program may be made by the operator at any time. Additions shall be reported as part of the annual report.

b. Updates and modifications to specific standards and specifications, schedules, operating procedures, ordinances, manuals, checklists, and other documents routinely evaluated and modified are permitted under this state permit provided that the updates and modifications are done in a manner that (i) is consistent with the conditions of this state permit, (ii) follow any public notice and participation requirements established in this state permit, and (iii) are documented in the annual report.

c. Replacing, or eliminating without replacement, any ineffective or infeasible strategies, policies, and BMPs specifically identified in this permit with alternate strategies, policies, and BMPs may be requested at any time. Such requests must [be made in writing to the department and signed in accordance with 4VAC50-60-370, and] include the following:

(1) An analysis of how or why the BMPs, strategies, or policies are ineffective or infeasible, including [information on whether the BMPs, strategies, or policies are] cost prohibitive;

(2) Expectations [~~on~~ regarding] the effectiveness of the replacement BMPs, strategies, or policies;

(3) An analysis of how the replacement BMPs are expected to achieve the goals of the BMP's to be replaced;

(4) A schedule for implementing the replacement BMPs, strategies, and policies; [and]

(5) An analysis of how the replacement strategies and policies are expected to improve the operator's ability to meet the goals of the strategies and policies being replaced [; and.]

[(6) Requests or notifications must be made in writing to the department and signed in accordance with 4VAC-50-60-370.]

d. The operator follows the public involvement requirements identified in Section II B 2 (a).

2. MS4 Program updates requested by the department. In a manner and following procedures in accordance with the Virginia Administrative Process Act, the Virginia Stormwater Management regulations, and other applicable state law and regulations, the department may request changes to the MS4 Program to assure compliance with the statutory requirements of the Virginia Stormwater Management Act and its attendant regulations to:

a. Address impacts on receiving water quality caused by discharges from the MS4;

b. Include more stringent requirements necessary to comply with new state or federal laws or regulations; or

c. Include such other conditions necessary to comply with state or federal law or regulation.

Proposed changes requested by the department shall be made in writing and set forth the basis for and objective of the modification as well as the proposed time schedule for the operator to develop and implement the modification. The operator may propose alternative program modifications or time schedules to meet the objective of the requested modification, but any such modifications are at the discretion of the department.

SECTION III

CONDITIONS APPLICABLE TO ALL STATE PERMITS

A. Monitoring.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 (2001) or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this state permit.

3. The operator shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. Records.

1. Monitoring records/reports shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

2. The operator shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this state permit, and records of all data used to complete the registration statement for this state permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved

litigation regarding the regulated activity or regarding control standards applicable to the operator, or as requested by the board.

C. Reporting monitoring results.

1. The operator shall submit the results of the monitoring required by this state permit with the annual report unless another reporting schedule is specified elsewhere in this state permit.
2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR); on forms provided, approved or specified by the department; or in any format provided the date, location, parameter, method, and result of the monitoring activity are included.
3. If the operator monitors any pollutant specifically addressed by this state permit more frequently than required by this state permit using test procedures approved under 40 CFR Part 136 (2001) or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this state permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this state permit.

D. Duty to provide information. The operator shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this state permit or to determine compliance with this state permit. The board may require the operator to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of surface waters, or such other information as may be necessary to accomplish the purposes of the CWA and Virginia Stormwater Management Act. The operator shall also furnish to the department upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this state permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized stormwater discharges. Pursuant to B§ 10.1-603.2:2 A of the Code of Virginia, except in compliance with a state permit issued by the board, it shall be unlawful to cause a stormwater discharge from a MS4.

G. Reports of unauthorized discharges. Any operator of a ~~regulated~~ small MS4 who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance or a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR Part 117 (2002) or 40 CFR Part 302 (2002) that occurs during a 24-hour period into or upon surface waters; or who discharges or causes or allows a discharge that may reasonably be expected to enter surface waters, shall notify the Department of Environmental Quality of the discharge immediately upon discovery of the discharge, but in no case later than within 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the Department of Environmental Quality and the Department of Conservation and Recreation, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this state permit.

Discharges reportable to the Department of Environmental Quality and the Department of Conservation and Recreation under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a "bypass" or "upset," as defined herein, should occur from a facility and the discharge enters or could be expected to enter surface waters, the operator shall promptly notify, in no case later than within 24 hours, the Department of Environmental Quality and the Department of Conservation and Recreation by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The operator shall reduce the report to writing and shall submit it to the Department of Environmental Quality and the Department of Conservation and Recreation within five days of discovery of the discharge in accordance with Section III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the facilities; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The operator shall report any noncompliance which may adversely affect surface waters or may endanger public health.

1. An oral report shall be provided within 24 hours to the Department of Environmental Quality and the Department of Conservation and Recreation from the time the operator becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board or its designee may waive the written report on a case-by-case basis for reports of noncompliance under Section III I if the oral report has been received within 24 hours and no adverse impact on surface waters has been reported.

3. The operator shall report all instances of noncompliance not reported under Sections III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Section III I 2.

NOTE: The immediate (within 24 hours) reports required to be provided to the Department of Environmental Quality in Sections III G, H and I may be made to the appropriate Department of Environmental Quality's Regional Office Pollution Response Program as found at [<http://www.deq.virginia.gov/prep/homepage.html#http://deq.virginia.gov/Programs/PollutionResponsePreparedness.aspx>] Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

4. Where the operator becomes aware of a failure to submit any relevant facts, or submittal of incorrect information in any report to the department or the Department of Environmental Quality, it shall promptly submit such facts or correct information.

J. Notice of planned changes.

1. The operator shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The operator plans an alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under B§ 306 of the Clean Water Act that are applicable to such source; or

(2) After proposal of standards of performance in accordance with B§ 306 of the Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with B§ 306 within 120 days of their proposal;

b. The operator plans alteration or addition that would significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this state permit; or

2. The operator shall give advance notice to the department of any planned changes in the permitted facility or activity; which may result in noncompliance with state permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for state permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a public agency includes:

(1) The chief executive officer of the agency, or

(2) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by state permits, and other information requested by the board shall be signed by a person described in Section III K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Section III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the operator. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Section III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Section III K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Sections III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The operator shall comply with all conditions of this state permit. Any state permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and the Clean Water Act, except that noncompliance with certain provisions of this state permit may constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act. State permit noncompliance is grounds for enforcement action; for state permit termination, revocation and reissuance, or modification; or denial of a state permit renewal application.

The operator shall comply with effluent standards or prohibitions established under B§ 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this state permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the operator wishes to continue an activity regulated by this state permit after the expiration date of this state permit, the operator shall submit a new registration statement at least 90 days before the expiration date of the existing state permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing state permit.

N. Effect of a state permit. This state permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this state permit shall be construed to preclude the institution of any legal action under, or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by B§ 510 of the Clean Water Act. Except as provided in state permit conditions on "bypassing" (Section III U), and "upset" (Section III V) nothing in this state permit shall be construed to relieve the operator from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this state permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties to which the operator is or may be subject under B§§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law or B§ 311 of the Clean Water Act.

Q. Proper operation and maintenance. The operator shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), which are installed or used by the operator to achieve compliance with the conditions of this state permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by the operator only when the operation is necessary to achieve compliance with the conditions of this state permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering surface waters.

S. Duty to mitigate. The operator shall take all reasonable steps to minimize or prevent any discharge in violation of this state permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for an operator in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this state permit.

U. Bypass.

1. "Bypass," as defined in 4VAC50-60-10, means the intentional diversion of waste streams from any portion of a treatment facility. The operator may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Sections III U 2 and U 3.

2. Notice.

a. Anticipated bypass. If the operator knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The operator shall submit notice of an unanticipated bypass as required in Section III I.

3. Prohibition of bypass.

a. Bypass is prohibited, and the board or its designee may take enforcement action against an operator for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The operator submitted notices as required under Section III U 2.

b. The board or its designee may approve an anticipated bypass, after considering its adverse effects, if the board or its designee determines that it will meet the three conditions listed above in Section III U 3 a.

V. Upset.

1. An upset, as defined in 4VAC50-60-10, constitutes an affirmative defense to an action brought for noncompliance with technology based state permit effluent limitations if the requirements of Section III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

3. An operator who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the operator can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The operator submitted notice of the upset as required in Section III I; and

d. The operator complied with any remedial measures required under Section III S.

4. In any enforcement proceeding the operator seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The operator shall allow the department as the board's designee, or an authorized representative (including an authorized contractor acting as a representative of the administrator), upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the operator's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this state permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this state permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this state permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring state permit compliance or as otherwise authorized by the Clean Water Act and the Virginia Stormwater Management Act, any substances or parameters at any location.

For purposes of this subsection, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. State permit actions. State permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the operator for a state permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any state permit condition.

Y. Transfer of state permits.

1. State permits are not transferable to any person except after notice to the department. Except as provided in Section III Y 2, a state permit may be transferred by the operator to a new owner or operator only if the state permit has been modified or revoked and reissued, or a minor modification made, to identify the new operator and incorporate such other requirements as may be necessary under the Virginia Stormwater Management Act and the Clean Water Act.

2. As an alternative to transfers under Section III Y 1, this state permit may be automatically transferred to a new operator if:

- a. The current operator notifies the department at least two days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new operators containing a specific date for transfer of state permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing operator and the proposed new operator of its intent to modify or revoke and reissue the state permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Section III Y 2 b.

Z. Severability. The provisions of this state permit are severable, and if any provision of this state permit or the application of any provision of this state permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this state permit, shall not be affected thereby.

4VAC50-60-9998
FORMS (4VAC50-60)

Application Form 1-General Information, Consolidated Permits Program, EPA Form 3510-1, DCR 199-149 (August 1990).

Department of Conservation and Recreation Permit Fee Form, DCR 199-145 (10/09).

[Department of Conservation and Recreation MS4 Operator Permit Fee Form, DCR 199-145 (10/09) (09/12).]

Department of Conservation and Recreation Construction Activity Operator Permit Fee Form, DCR 199-213 (09/12).

General Permit for Discharges of Stormwater from Construction Activities (VAR10) - Registration Statement, DCR 199-146 (03/09).

General Permit Notice of Termination - Construction Activity Stormwater Discharges (VAR10), DCR 199-147 (03/09).

General Permit for Discharges of Stormwater from Construction Activities (VAR10) - Transfer Agreement, DCR199-191 (03/09).

General Permit Registration Statement for Stormwater Discharges From Small Municipal Separate Storm Sewer Systems (VAR04), DCR 199-148 (07/08).

[General Permit Registration Statement for Stormwater Discharges From Small Municipal Separate Storm Sewer Systems (VAR04) and Instructions, DCR 199-148 (09/12).]

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DOCUMENTS INCORPORATED BY REFERENCE (4VAC50-60)

Illicit Discharge Detection and Elimination B— A Guidance Manual for Program Development and Technical Assessments, EPA Cooperative Agreement X-82907801-0, October 2004, by Center for Watershed Protection and Robert Pitt, University of Alabama, available on the Internet at <http://cfpub.epa.gov/npdes/stormwater/idde.cfm>.

Getting in Step B— A Guide for Conducting Watershed Outreach Campaigns, EPA-841-B-03-002, December 2003, U.S. Environmental Protection Agency, Office of Wetlands, Oceans, and Watersheds, available on the Internet at <http://www.epa.gov/owow/watershed/outreach/documents/getinstep.pdf>, or may be ordered from National Service Center for Environmental Publications, telephone 1-800-490-9198.

Municipal Stormwater Program Evaluation Guidance, EPA-833-R-07-003, January 2007 (field test version), U.S. Environmental Protection Agency, Office of Wastewater Management, available on the Internet at http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=allprog&sort=name#ms4_guidance, or may be ordered from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, telephone 1-800-553-6847 or (703) 605-6000.

Virginia Runoff Reduction Method: Instructions & Documentation, March 28, 2011.

[Virginia Water Quality Assessment 305(b)/303(d) Integrated Report, December 2010, Virginia Department of Environmental Quality and Virginia Department of Conservation & Recreation.]